AN

# Historical Vindication OF THE Church of England

In point of

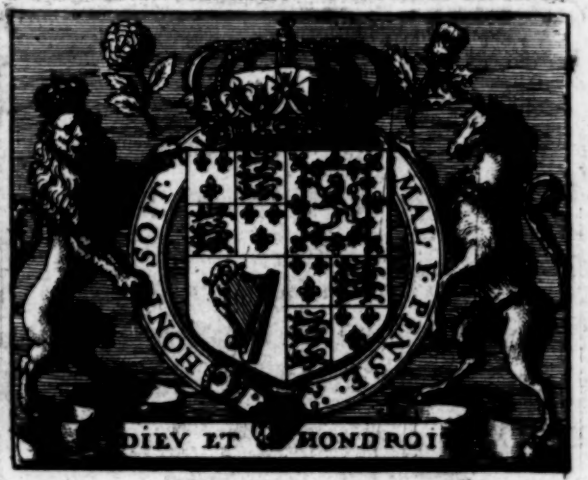
# SCHISM,

As it ſtands Separated from the **ROMAN**, and was Reformed I. ELIZABETH.

By Sir **ROGER TWISDEN** Knight and Baronet. (Twysden)

*Ask for the old paths, where is the good way, and walk therein, and ye ſhall find reſt for your Souls,* Jer. vi. 16.

CHARLES the II. &c. Defender of the Faith.

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# SCHISM.

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# TO THE READER.

I Know how easily men are drawn to believe, their own observations and expressions may prove as welcome to others, as they are pleasing to themselves. And though few books live longer than the Authors who send them to the Press, and fewer avoid an opinion they might have been as well spared as come abroad; yet neither the hazard their makers run, nor the little gain they reap, can hinder those have a Genius that way, from suffering others to be as well Masters and censurers of their thoughts as themselves.

This being then the venture every Writer exposes himself unto, the Reader may not a little marvel how I have been brought to hazard my self on the

ſame Seas I have ſeen ſo many Ship-wrackt in. I ſhall deſire him to adde this to what is already in the firſt chapter, as my Apology.

Reading ſometimes in Baronius, [a] that all things were well done in the Catholick Church, had venerable antiquity for their warrant, and that the Roman Church did not preſcribe any thing as [b] an holy tenet, but ſuch only as delivered by the Apoſtles, preſerved by the Fathers, were by our Anceſtors tranſmitted from them to us; I cannot deny to have thought (for certainly Truth is more ancient than Error) this being made good, and that ſhe did commend them to us, in no other degree of neceſſity than thoſe former ages had done, but ſhe had much more reaſon on her ſide than I had formerly conceived her to have: but in examining the aſſertions, it ſeemed to me not only otherwiſe, but that learned Cardinal not to have ever been in this conſonant to himſelf, [c] confeſſing the Catholick Church not always, and in all things, to follow the interpretations of the moſt holy Fathers.

On the other ſide, it ſeemed to me ſomewhat hard to affirm the Papacy had incroached on the Engliſh, and neither inſtance when, where, nor how.

Here-

a Veneranda Antiquitas, cujus præſcripto cuncta bene geri in Eccleſia Catholica conſueverunt. Baron. Annal. tom. 8. Anno 692, n. 5.

b Non pro arbitrio diſſerentium, verbiſque pugnantium hominum, ſacra dogmata Romana Eccleſia definiret; ſed quæ ab Apoſtolis tradita, à majoribus deducta, à patribus ſervata accepiſſet, hæc ipſa, utpote ſacroſancta, univerſæ Eccleſiæ ſervanda, atq; inviolabili lege cuſtodienda, eadem Eccleſia Romana præſcriberet; Baron. tom. 7. an. 535. n. 90.

c Sanctiſſimos patres in interpretatione Scripturarum non ſemper & in omnibus Catholica Eccleſia ſequitur, tom. 1. Anno 34. n. 213.

*Hereupon, as I peruſed our ancient Laws, and Hiſtories, I began to obſerve all changes in matters Eccleſiaſtical reported by them; in which I had ſometimes ſpeech with that learned Gentleman I mention in the firſt chapter, whom I ever found a perſon of great candor, integrity, and a true Engliſh-man. I noted likewiſe how the Reformation of Religion was begun with us, how cautiouſly our Anceſtors proceeded, not to invade the Rights of any, but to conſerve their own. Many years after, I know not by what fate, there was put into my hands (as a piece not capable of anſwer, in relation as well to the fact as reaſon it carried) without at all my ſeeking after it, or hearing of it, a Treatiſe of the Schiſm of* England, *carrying the name of one* Philip Scot, *but as told me, compoſed by a perſon of greater eminency, dedicated to both the Univerſities, and printed* permiſſu ſuperiorum; *truly, in my judgment, neither illiterately nor immodeſtly writ: but in reading of it, I found ſundry particulars, ſome perhaps only intimated, others plainly ſet down, I could no way aſſent unto; as that* Clement *the* vii. *did exerciſe no other authority in the Church than* Gregory *the great*

*great had done, That the Religion brought hither by* Auguſtine *varyed not from that was before the Reformation, That the* Engliſh *made the ſeparation from the Church of* Rome, *That in doing ſo we departed from the Church Catholick.*

*I was not ignorant it might be found in the writings of ſome Proteſtants, as if we departed from* Rome; *which I conceive is to be underſtood in reſpect of the Tenets we ſeparate from holding Articles of faith, not of the manner how it was made.*

*Having gone through the book, I began to look over my former notes, and putting them for my own ſatisfaction in order, found them ſwell farther than I expected;* Urceum inſtitui, exit amphora: *and when they were placed together, I ſhewed them to ſome very good friends, to whoſe earneſt perſwaſions (being ſuch as might diſpoſe of me and mine,) I have in the end been forced to yield, making thee partaker of that I never intended ſhould have paſt farther than their eyes.*

*Yet in obeying them I ſhall deſire to be rightly underſtood; That as I do not in this take upon me the diſputing the truth of any controverſial tenet, in diſ-*

*ference*

*ference between us and the Church of* Rome, *ſo I meddle not with any thing after* Pius quintus *came to the Papacy; who firſt by private practiſes, and then open excommunication of her Majeſty, declared himſelf an enemy, and in open hoſtility with this State, which therefore might have greater reaſon to prevent his endeavours, by ſome more ſharp Laws againſt ſuch as were here of his inclination, than had been ſeen formerly: with which I meddle not.*

*Thus the Reader hath the truth, both how I came to compoſe, and how to Print this. If he find any thing in it like him, he muſt thank the importunity of others; if to miſdoubt, I give him in the margin what hath lead me to that I affirm; if to diſlike, his loſs will not be great either in time or coſt: and perhaps it may incite him to do better in the ſame argument, and ſhew me my errours, which (proceeding from a mind hath not other intent than the diſcovery of truth) no man ſhall be gladder to ſee, and readier to acknowledg then*

From my Houſe in
*Eaſt-Peckham*,
22. May, 1657.

Roger Twiſden.

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An

# AN HISTORICAL VINDICATION OF THE Church of ENGLAND In point of SCHISM,

## As it ſtands ſeparated from the *Roman*, and was Reformed 1. *Elizabeth.*

### CHAP. I.

1. IT is now almoſt twenty years ſince defending the Church of *England* as it was ſetled 1. *Eliz.* for the moſt perfect and conformable to Antiquity of any in *Europe*, a Gentleman, whoſe converſation for his Learning, I very much affected, told me, He was never ſatisfied of our agreeing with the Primitive Church in two particulars; the one in denying all manner of Superiority to the Biſhop of *Rome*, to live in whoſe Communion the Eaſt and Weſtern Chriſtians did ever highly eſteem. The other, in condemning Monaſtique living, ſo far, as not only to reform them, if any thing were amiſs, but take down the very houſes themſelves. To the firſt of theſe I ſaid, We did not deny ſuch a Primacy in the Pope as the Ancients did acknowledge, but that he by that might exerciſe thoſe acts he of ſome years before *Hen.* VIII. had done, and had got by encroaching on the *Engliſh* Church and State meerly by their tolerance, which when the King-

dom took to redreſs and reſtrain him in, he would needs interpret a departing from the Church; yet if any made the departure, it muſt be the Pope, the Kingdom ſtanding only on thoſe Rights it had ever uſed for its own preſervation, which putting in practice, it was interdicted, the King excommunicated by him, *&c.* To which he replyed in effect that of *Henry* the eighth in his Book againſt *Luther*, That it was very incredible the Pope could do thoſe acts he had ſometimes exerciſed here by encroachment; for how could he gain that power and none take notice of it? That this argument could have no force if not made good by Hiſtory, and thoſe of our own Nation, how he had increaſed his Authority here. Which, truly, I did not well ſee how to deny, farther than that we might by one particular conclude of another; As if the Church or State had a right of denying any Clark going without Licenſe beyond Seas, it muſt follow, it might bar them from going, or Appealing to *Rome*: If none might be acknowledged for Pope without the Kings approbation, it could not be denyed but the neceſſity of being in union with the true Pope (at leaſt in time of Schiſm) did wholly depend on the King. And ſo of ſome other.

2. As for the other point of Monaſteries, I told him, I would not take upon me to defend all that had been done in demoliſhing of them; I knew they had nouriſhed men of Piety and good Learning, to whom the preſent Age was not a little beholding; for, what do we know of any thing paſt but by their labours? That divers well affected to the Reformation, and yet perſons of integrity, are of opinion their ſtanding might have continued to the advancement of Literature, the increaſe of Piety, and Relief of the Poor. That the King when he took them down was the greateſt looſer by it himſelf. Whoſe opinions I would not contradict, yet it could not be denyed, they were ſo far ſtreyed from their firſt inſtitution,

tution, as they reteined little other than the name of what they firſt were.

3. Upon this I began to caſt with my ſelf how I could Hiſtorically make good that I had thus aſſerted, which in general I held moſt true, yet had not at hand punctually every circumſtance, Law, and Hiſtory that did conduce unto it; in reading therefore I began to note apart what might ſerve for proof any way concerning it: But that Gentleman with whom I had this ſpeech being not long after taken away, I made no great progreſs in it, till ſome years after, I was conſtrained to abide in *London* (ſequeſtred, not only from publique, but even the private buſineſs of my Eſtate) I had often no other way of ſpending my time but the company a Book did afford; inſomuch as I again began to turn over our ancient Laws and Hiſtories, both printed and written, whereof I had the peruſal of divers of good worth, whence I collected many notes, and began farther to obſerve the queſtion between us and the Church of *Rome* in that point, not to be whether our Anceſtors did acknowledge the Pope ſucceſſor of S. *Peter*, but what that acknowledgment did extend to: Not whether he were Vicar of Chriſt, had a power from him to teach the Word of God, adminiſter the Sacraments, direct people in the ſpiritual ways of heaven (for ſo had every Biſhop, amongſt which he was ever held by them the firſt, *Pater maximus in eccleſia*, as one to whom Emperours and Chriſtians had not only allowed a primacy, but had left behind them why they did it, *Sedis Apoſtolicæ primatum ſancti* Petri *meritum, qui princeps eſt Epiſcopalis coronæ* Romanæ *dignitas civitatis ſacræ etiam Synodi firmarit auctoritas*, ſays[a] *Valentinian* 445. On which grounds, if we will accept it, I know no reaſon to deny his being prime) but whether they conceived his commiſſion from *Chriſt* did extend ſo far as to give him an abſolute authority over the Church and Clergy in *England*, to redreſs, reform, correct, amend all things in

[a] *Valentinian Novel.* 24. *in fin. con. Theod.*

it, not by advice, but as having power over it, with or againſt their own liking, and farther to remove, tranſlate, ſilence, ſuſpend all Biſhops, and others of the Spirituality. In ſhort, to exerciſe all Eccleſiaſtique authority within this Church above any whatſoever, ſo as all in Holy Orders (one of the three Eſtates of the Kingdom) ſolely and ſupreamly depended on him, and he on none but *Chriſt*; and whether our Forefathers did ever admit him with this liberty of diſpoſing in the *Engliſh* Church.

4. To wade through which queſtion there was an eye to be caſt on all the times ſince *Chriſt* was heard of in *England*, and therefore to be conſidered how Chriſtianity ſtood upon the converſion of the *Britans*, the *Saxons*, and ſince the irruption of the *Normans*, under the firſt of theſe we have but little, under the ſecond ſomewhat, yet not much, under the third the Papacy ſwell'd to that height, ſome parts have been conſtrained to caſt it off, and *England* without his aſſent in that point ſo to reform it ſelf, as to declare *b no manner of ſpeaking, doing, communication, or holding againſt the Biſhop of* Rome, *or his pretenſed power or authority, made or given by humane Laws, ſhall be deemed to be Hereſy.* By which it ſeems thoſe Epiſcopal Functions he did exerciſe common with other Biſhops (as Baptizing, conferring Holy Orders, *&c.*) it did not deny to be good and valid of his adminiſtration.

b Stat. 25. *Hen.* 8. cap. 14.

5. But what thoſe particulars were humane Laws had conferred upon the Papacy, and by what conſtitutions or Canons thoſe preheminences were given him, was the thing in queſtion, and not ſo eaſie to be found, becauſe indeed gained by little & little. I cannot but bold Truth more ancient than Errour, every thing to be firmeſt upon its own bottom, and all novelties in the Church to be beſt confuted by ſhewing how far they cauſe it to deviate from the firſt original. I no way doubt but the Religion exerciſed by the *Britains* before *Auguſtine* came, to have been

been very pure and holy: nor that planted after from S. *Gregory*, though perhaps with more ceremonies and commands, *juris positivi*, which this Church embraced, rejected, or varied from, as occasion served to be other, but in the foundation most sound, most orthodox; that holy man never intending such a superiority over this Church as after was claimed. The Bishops of *England* in their condemnation of *Wicliffs* opinions, do not at all touch upon those *c* concerned the Popes Supremacy, and the *d* Councel of *Constance* that did censure his affirming, *Non est de necessitate salutis credere Romanam Ecclesiam esse supremam inter alias Ecclesias*, doth it with great limitations and as but an error: *Error est si per Romanam Ecclesiam intelligat universalem Ecclesiam, aut concilium generale, aut pro quanto negaret primatum summi Pontificis super alias Ecclesias particulares*: I conceive therefore the Basis of the Popes or Church of *Romes* authority in *England*, to be no other then what being gained by custom, was admitted with such regulations as the Kingdom thought might stand with it's own conveniency, and therefore subject to those *e* stipulations, contracts with the Papacy & pragmaticks it at any time hath made or thought good to set up, in opposition of extravagancies arising thence, in the reformation therefore of the Church of *England*, two things seem to be especially searcht into, and a third arising from them fit to be examined.

c *Apud* Knighton. *col.* 2648. *& in fasciculo zizaniorum* Mss. *fol.* 64. 2. col. 1. *in bibliotheca Archiepiscopi Armachani.*

d *Concil. Constant.* Sess. 8. Art. 41.

e *Vide concordata inter* Hen. 2. *&* Alexandrum 3. 1172. Edw 3. *&* Gregor. 11. 1372. Henr 5. *&* Martin. 5. 1418.

1. Whether the Kingdom of *England* did ever conceive any necessity, *jure divino*, of being under the Pope united to the Church and See of *Rome*, which draws on the consideration how his authority hath been exercised in *England* under the *Britons*, *Saxons* and *Normans*, what treasure was carried annually hence to *Rome*, how it had been gained, and how stopt.

2. Whether the Prince with the advise of his Clergy was not ever understood to be endued with authority sufficient, to cause the Church within his Dominions be by them

them reformed, without uſing any act of power not legally inveſted in him, which leads me to conſider what the Royal authority *in ſacris* is. 1. In making laws that God may be truly honoured. 2. Things decently performed in the Church. 3. Prophaneneſs puniſhed, queſtions of doubt by their Clergy to be ſilenced.

3. The third how our Kings did proceed, eſpecially Queen *Elizabeth* (under whoſe Reformation we then lived) in this act of ſeperation from the See of *Rome*, which carries me to ſhew how the Church of *England* was reformed by *Henry* VIII. *Edward* VI. and Queen *Elizabeth*. Wherein I look upon the proceedings abroad and at home againſt Hereticks, the obligation to general Councels, and ſome other particulars incident to thoſe times.

I do not in this at all take upon me the diſputation, much leſs the Theological determination of any controverted *Tenet* (but leave that as the proper ſubject to Divines) this being only an hiſtorical narration how ſome things came amongſt us, how oppoſed, how removed by our Anceſtors, who well underſtanding this Church not obliged by any forraign conſtitutions, but as allowed by it ſelf, and either finding the inconvenience in having them urged from abroad farther then their firſt reception here did warrant. Or that ſome of the Clergy inforced opinions as articles of faith, were no way to be admitted into that rank, did by the ſame authority they were firſt brought in (leaving the body or eſſence (as I may ſay) of Chriſtian Religion untouched,) make ſuch a declaration in thoſe particulars, as conſerved the Royal dignity in it's ancient ſplendour, without at all invading the true legal rights of the ſtate Eccleſiaſtical, yet might keep the Kingdom in peace, the people without diſtruction, and the Church in Unity.

CHAP.

## CHAP. II.

# *Of the Britans.*

1. I Shall not here enquire who first planted Christian Religion amongst the *Britans*, whether *a Joseph* of *Arimathea*, *b Simon Zelotes*, *c* S. *Peter* or *Eleutherius*, neither of which wants an Author, yet I must confess it hath ever seemed to me by their alleadging the *d* Asian formes in celebrating *Easter*, their differing from the rites of *Rome e* in several particulars, of which those of most note were, that of *Easter*, and baptizing after another manner, then the *Romans* used, their often journeying to *Palestina*, that they received the first principles of Religion from *Asia*. And if afterward *Celestinus* the Pope did send (according to *f Prosper*) *Germanus vice sua* to reclaim them from *Pelagianisme*, certainly the inhabitants did not look on it, as an action of one had authority, though he might have a fatherly care of them as of the same profession with him, as a *g* Synod in *France* likewise had, to whom in their distress they did address themselves, to which *Beda* attributes the help they received by *Germanius* and *Lupus*.

a Baron. to. 1. An. 35. n. 5.
b Niceph. Callist. *l.* 2. *c.* 40.
c Metaphrastes Junii *de eo vide* Baron. to. 1. An. 60. n. 4. Bed. *l.* 1. *c.* 4.
d Beda *l.* 3. *c.* 25. *confer.* Euseb. *hist. lib.* 5. *cap.*
e *In multis nostræ consuetudini, — contraria geritis apud* Bed. *l.* 2. *c.* 2. *Augustin. Britonibus.*
f Prosper. *in Chron. An.* 432.
g Beda *l.* 1. *c.* 17

2. After this as the *Britans* are not read to have yeilded any subjection to the Papacy, so neither is *Rome* noted to have taken notice of them, * for *Gregory* the great about 590. being told certain children were *de Britannia insula*, did not know whether the Country were Christian or Pagan, and when *Augustine* came hither *b* and demanded their obedience to the Church of *Rome*; the Abbot of *Bancor* returned him answer: *That they were obedient to the Church of God, to the Pope of* Rome, *and to every godly Christian, to love every one in his degree in charity, to help them in word and deed to be the children of God, and other*

* *Vide c.* 2. *n.* 2. Joh. Diac. *l.* 1. *c.* 21. *vita* Gregor. Beda *l.* 2. *c.* 1.
h *Conc. Spelm. p.* 108.

*other obedience then this they did not know due to him, whom he named to be Pope nor to be father of fathers.*

3. The Abbots name that gave this reply to *Auguſtine* ſeems to have been *Dinooth* and is in effect no other then what *i Geffry Monmouth* hath remembred of him, that being *miro modo liberalibus artibus eruditus* Auguſtino *petenti ab epiſcopis* Britonum *ſubjectionem diverſis monſtravit argumentationibus ipſos ei nullam debere ſubjectionem*, to which I may adde by the teſtimony of *k Beda* their not only denying his propoſitions, *ſed neq; illum pro* Archiepiſcopo *habiturum reſpondebant*. And it appears *l* by *Gyraldus Cambrenſis*, this diſtance between the two Churches continued long even till *Henry* the firſt, induced their ſubmiſſion by force, before which *Epiſcopi* Walliæ *à* Menevenſi *Antiſtite ſunt conſecrati, & ipſe ſimiliter ab aliis tanquam ſuffraganeis eſt conſecratus, nulla penitus alii Eccleſiæ facta profeſſione vel ſubjectione*: the generality of which words muſt be conſtrued to have reference as well to *Rome* as *Canterbury*; for, a little after, he ſhews that though *Auguſtine* called them to councel, as a Legat of the Apoſtolique See, yet returned, they did proclaim they would not acknowledge him an Archbiſhop, but did contemn both himſelf and what he had eſtabliſhed.

4. Neither were the *Scots* in this difference any whit behind the *Britans*, as we may perceive by the letter of *Laurentius Juſtus*, and *Mellitus*, to the Biſhops and Abbots through *Scotland*; in which they remember the ſtrange perverſneſs of one *Dagamus* a *Scottiſh* Biſhop, who upon occaſion coming to them did not only abſtain eating with them, but would not take his meat in the ſame houſe they abode, yet they ſalute them with the honorable titles of *their deareſt lords and brethren*. A certain ſign of a wide diſtance between the opinions of *Rome* then, and now, when men are raught not ſo much as to *m* bid them farewel, do not ſubmit unto it, ſure our firſt Biſhops knew

*i* Galfrid Monumeten *ubi agit de* Auguſtino *prope finem.*

*k Lib. 2. cap. 2.*

*l* Giral. *Itin. Camb. l. 2. c. 1.*

*m* Baronius *Paræneſis ad Remp. Venetam* p. 52. *atq; his tandem finis eſto, ſed doleo vehementèr quod abſque valete.* Joannes *enim Apoſtolus id vetat & cum eo omnis ſimul Eccleſia quod indignos ſalutatione juſtè judicet qui non communicantes* Romanæ *Eccleſiæ omnis penitus ſunt ſalutis expertes* (2. Johan.)

knew no ſuch rule, who placed in their Calender for Saints and holy men, as well *Hilda*, *Aydon*, and *Colman*, the oppoſers of *Rome*, as *Wilfred*, *Agilbertus*, and others who ſtood for it.

## CHAP. III.

## *Of the increaſe of the Papal power in* England *under the* Saxons *and* Normans, *and what oppoſitions it met with.*

1. AFter the planting of Chriſtian Religion amongſt the *Saxons*, the Arch-biſhop of *Canterbury* became a perſon ſo eminent, all *England* was reputed his *a* Dioceſs, in the Colledge of Biſhops *b London* his Dean, whoſe office it was to *c* ſummon Councels, *Wincheſter* his Chancellour, *d Saliſbury* or (as ſome) *Wincheſter* his Precentor, or that begun the Service by ſinging, *e Worceſter*, or rather *Rocheſter* his Chaplain, and the other the carrier of his Croſs: *f* expected no leſs obedience from *York*, then himſelf yielded to *Rome* g, *voluntate & beneficio*, it being the opinion of the Church of *England*, it was but equal *h ut ab eo loco mutuentur vivendi diſciplinam, à cujus fomite rapuerunt credendi flammam.* The dependence therefore of the Clergy in *England* being thus wholly upon the Arch-biſhop, it will not be amiſs to take a little view both of what eſteem he was in the Church, and how it came to be taken off, and by degrees transferr'd to a foreign power.

2. Upon the Converſion of the *Saxons* here by the preaching of *Auguſtine* and his companions, and a quiet peace ſettled under *Theodore*, *i* to whom all the *Engliſh*

*a* Eadmer. *p.* 12 29. *p.* 137. 1. Gerv. Dorob. *col.* 1661, 54.
*b* Lyndwood *de pœnis. cap.* Tanquam.
*c* Gerv. Dorob. *col.* 1566, 10.
*d Sic* Lynd. *ubi ſupr. at* Ger. Dorobern. *col.* 1382, 61. *col.* 1429, 23.
*e Sic* Lynd. *at* Ger. Doroh. *col.* 1382, 61. *col.* 1429, 23. Roſ. *at* 1565, 1. Wigor.
*f* Malms. *f.* 121. a. *&* Diceto *col.* 437, 64.
g Rodulph. *Arch. Ep. inter ſcript. x.* Angliæ, *&c. col.* 1736, 17.
*h* Malms. *fol.* 121, 2. 8.
*i* Beda *l.* 4. *c.* 2

k *Lib. MS. in aula Tribitatis Cantabrig.*

l Hall 20. Hen. 8. f. 179.

m *Divisus ab orbe nostro Britannus, si in religione processerit, quærit locum fama sibi tantū & scripturarum relatione cognitum. Ep. Paulæ & Eustochii de commigrat. Bethlehem, inter opera Hieronymi Scrip. circa Ann.* 386.

n *lib.* 4. *c.* 23. Beda.

o Troubles at *Frankford pag.* xxxvi. *Edit.* 1575.

p *ibid. pag.* li.

q *ib.* p. clvii.

r *ibid.* p. xlix.

submitted, k Parochial Churches by his encouragement began to be erected, and the Bishop of *Rome* greatly reverenced in this Nation, as being the successour of S. *Peter* the first Bishop of the world, Patriarch of the West, that resided in a town l held to nourish the best Clerks in Christendom, and the seat of the Empire: insomuch, as the devout *Britan* (who seems (as I said) to have received his first conversion from *Asia*) m did go to *Judea* as a place of greatest sanctity, so n amongst the *Saxons*, *Romam adire magnæ virtutis æstimabatur*. But as this was of their part, no other then as to a great Doctour or Prelate, by whose solicitude they understood the way to Heaven, and to a place in which religion and piety did most flourish; so the instructions thence were not as coming from one had dominion over their faith, the one side not at all giving, nor the other assuming other then that respect is fit to be rendred from a puisne or less skilful to more ancient and learned Teachers. As of late times when certain Divines at *Frankford* 1554. differed about the Common-prayer used in *England*, *Knox* and *Whittingham* appealed to *Calvin* for his opinion; and receiving his 200. Epistle, o *it so wrought in the hearts of many, that they were not so stout to maintain all the parts of the Book, as they were then against it.* And Dr. *Cox* and some other, who stood for the use of the said Book, wrote unto him, p *excusing themselves that they put order in their Church without his counsel asked.* Which honour they shew'd him, not as esteeming him q *to have any authority of office* over them; *but in respect of his learning and merits.*

3. As these therefore carried much honour, and yielded great obedience to *Calvin*, and the Church of *Geneva* by them, r *then held the purest reformed Church in Christendom*: so it cannot be denyed but our Ancestors the *Saxons* attributed no less to the Pope and Church of *Rome*, who yet never invaded the rights of this,

this, as contrary to the *f* Council of *Ephesus*, and the Canons of the Church of *t England*; but left the Government of it to the *English* Prelats, yet giving his best advice and assistance for increasing devotion, and maintenance of the Laws Ecclesiastical amongst them, in which each side placed the superiority. From whence it proceeded that however the Pope was sought to from hence, he rarely sent hither any Legat. *u* In the Council of *Calcuith* held about 180. years after *Augustine*, it is observed, *à tempore Sancti* Augustini *Pontificis sacerdos* Romanus *nullus in* Britanniam *missus est, nisi nos.* And *x Eadmerus*, that it was *inauditum in* Britannia, *quemlibet hominum super se vices Apostolicas gerere, nisi solum Archiepiscopum Cantuariæ.*

*f* Conc. gener. edit. Romæ 1608. tom. 1. p. 498. A
*t* Beda l. 4. c. 5.
*u* Conc Spelm. An. 787. p. 293
*x* pag. 58, 43.

4. But after the Pope instead of being *y* subject, began to be esteemed above the Ecclesiastick Canons, and to pretend a power of altering, and dispensing with them, and what past by his advise and counsel only, was said to be by his authority, he did question divers particulars had been formerly undoubtedly practiced in this Kingdom, he seeing them, and not shewing any dislike at it; as *z* The *receiving Investitures of Churches from Princes*, *a* The *calling Synods*, *The determining causes Ecclesiastical without Appeals to* Rome, *The transferring Bishops*, &c. but the removing these from *England* unto a forraign judicature, being as well in diminution of the rights of the Crown, as of this Church, past not without opposition.

*y* Caus. 2. q. 1. cap 7, 35. q. 2. cap. 2, 3, 4, &c.
*z* Ingulph. fol. 500. 2. 43.
*a* vide literas Paschal. 2. Hen. 1. apud Eadmerum, pag. 113, p. 115.

5. For *Anselm* an *Italian*, the first great promoter of the Papal authority with us, pretending he ought not be barr'd *b* of visiting the Vicar of St. *Peter*, *causâ regiminis Ecclesiæ*, was told as well by the Bishops as lay Lords, *c* That it was a thing unheard, and altogether against the use of the Realm, for any of the great men, especially himself to presume any such thing without the Kings licence: who affirmed, *d* *neque aquam fidem quam sibi debebat simul*

*b* Eadmer. pag. 38, 33.
*c* Eadmer. pag. 39, 30.
*d* Eadmer. pag. 26, 2.

*ſimul & Apoſtolicæ ſedis obedientiam contra ſuam voluntatem poſſe ſervare.* And the Arch-biſhop perſiſting in his journy thither, had not only his Biſhoprick ſeized into the Kings hand, but the Pope being ſhew'd how his carriage was reſented here, did not afford him either *e Conſilium* or *Auxilium*, but ſuffered him to live an Exile all that Princes time *f* without any conſiderable ſupport, or adjudging the cauſe in his favour. Which makes it the more ſtrange that (having found by experience what he had heard before, that it was the King, not the Pope, could help or hurt him) this viſit being ſo little to his advantage, at his firſt preſenting himſelf to *Henry* the I. he ſhould oppoſe *g* that Prince in doing him homage, and being inveſted by him, a right continued unto that time from his Anceſtors, and by which himſelf had received *h* the Arch-biſhoprick from his brother, and this on a ſuggeſtion that it was prohibited in a Councel held at *Rome*: in which he went ſo far as to tell the King, *i quod nec pro redemptione capitis mei conſentiam ei de iis quæ præſens audivi in Romano Concilio prohiberi, niſi ab eadem ſede interdictorum abſolutionis prodeat, à qua conſtitutionis ipſorum vinculum prodiit.*

e *ibid. p.* 52, 17.

f — *Nil judicii vel ſubventionis per* Romanum *præſulem nacti.* Eadmer. *pag.* 53, 28.

g Eadmer. *pag.* 56, 7.

h Eadmer. *p.* 18. 4 *p.* 20, 35.

i *ibid. p.* 70, 9.

6. This is the firſt, if not the only time that to what was acted at *Rome* an obedience was required here, as not to be diſpenſed with but from thence: for it is undoubted, this Kingdom never held it ſelf tyed by any thing paſt there, till received here; as *k Eadmerus* rightly obſerves, things done there not ratified here to be of no value. And when *l Winchelſea* 1296. would have introduced the contrary, it coſt him dear, the Clergy forced to reject the command, *m* and the Court to quit her pretenſes.

k Eadmer. *p.* 92, 40. *vide* Conc. Spelm. *pag.* 166, 9.

l Hen. Knighton 1296. *col.* 2491. v. Mat. Weſt. *& W.* Thorne.

m *De immunitate Eccl. c.* 3. *in Sexto. Et Tit. eodem c.* 1. *in Clement.*

7. But the diſpute, however the right ſtood, grew ſo high, the King told *Anſelme n* the Pope had not to meddle with his rights, and wrote that free letter we find in *Fœdera Anglicana, col.* 999, 30. which I have likewiſe ſeen in

n Eadmer. *p.* 70, 5.

in an old hand recorded amongſt divers other memorials of the Arch-biſhops of *Canterbury*: though I muſt needs ſay it ſeems to me by *o Paſchalis* his anſwer, repeating a good part of it, not ſent by thoſe he names, *p* but former Meſſengers. In this Controverſie the Popes returns were ſo ambiguous, that he writ ſo differing from their relations were ſent, it was thought fit *Anſelme* ſhould himſelf go to *Rome*: with whom K. *Henry* ſent another, *q* who ſpake plainly, his Maſter *nec pro amiſſione regni ſui paſſurum ſe perdere inveſtituras Eccleſiarum*; and (though *Rome* were willing to comply in other particulars) told *Anſelme* denying that, *r* he could not aſſure him of a welcome in *England*, who thereupon retired to *Lyons*: where finding *ſ* ſlender comfort from *Rome*, he ſought the King by letters, and after by the means of *Henry*'s *t* ſiſter made his peace; at which yet he was not permitted (ſuch was his ſpirit) to enter *England*, denying to communicate with them had received Biſhopricks from the King, but by the Popes diſpenſation. The concluſion was, *Paſchalis* taught by experience, neither the Court of *Rome* nor the Arch-biſhop gained ought by this conteſt; however he would not at firſt abate *u prædeceſſoris ſui ſententiæ rigorem*, yet now admitted great limitations to what *Urban* had eſtabliſht. So as the King *x* aſſenting none for the future ſhould be inveſted *per laicam manum* (which was no more, but what he formerly did himſelf, he would now cauſe to be performed by a Biſhop) the other agreed no Prelats to be barr'd of promotion, *etiamſi hominia Regi fecerint*, y *& hoc donec per omnipotentis Domini gratiam ad hoc omittendum cor regium molliatur*, &c. which yet the King ſoon after, on the Popes permiſſion of them to the Dutch, did threaten *z ſine dubio ſe reſumpturum ſuas inveſtituras, quia ille ſuas tenet in pace*; but for ought I find, it went no farther then their ſwearing fealty to the King, which ſeems to have been long *a* continued.

o *Apud* Eadmer. *p.* 59, 48.
p *Ib. p.* 56, 22.
q *Ibid. p.* 73, 13.
r *p.* 75. 27. *ib.*
ſ *Ib. p.* 79, 24.
t Eadmer. *pag.* 80, 27.
u *Ibid. p.* 63, 3.
x Eadmer. *pag.* 91, 21.
y *Ib. p.* 87, 35.
z *Ib. p.* 100, 1.
a Ger. Dorob. *An.* 1187. *col.* 1503, 36. R. *de* Glanvilla *Abbati de* Bello, *&c. præcipio tibi ex parte Domini Regis, per fidem quam ei debes & per ſacramentum quod ei feciſti, &c.* W. Thorn *Ann.* 1220. *col.* 1873, 56. Hugo 3. *Abbas* S. Auguſtini *gratanter admiſſus juravit fidelitatem* D. *Regi ſuper crucem ipſius legati.*

8. The

8. The Papacy finding by this conteſt the difficulty of carrying any thing here by an high hand, thought of more moderate wayes for bringing the Clergy of this Nation wholly to depend on *Rome*; but that could not be without diminiſhing the power the Arch-biſhop held over them, and therefore muſt be won by degrees: to advance which nothing could more conduce, then to have a perſon of wiſdome reſide here, who might direct this Church according to the Papal intereſt. But this was thought fit to be given out before practic't, and likely to be doubly oppoſed, for the Archbiſhop well underſtood the admitting a Legat for that end to be *b in ſuæ dignitatis præjudicium*. And the King ſuffered none to be taken for Pope, but whom he approved, nor any to receive ſo much as a Letter from *Rome*, without acquainting him with it, and held it an undoubted right of the Crown, *c ut neminem aliquando legati officio in Anglia fungi permitteret, ſi non ipſe, aliqua præcipua querela exigente, & quæ ab Archiepiſcopo Cantuariorum cæteriſque Epiſcopis regni terminari non poſſet, hoc fieri à Papa poſtularet*, &c.

b Mat. Paris pag. 440, 17. Anno 1237. Lond. 1640.

c Eadmer. pag. 125, 53. p. 6, 25 p. 113, 1.

9. Things ſtanding thus in the year 1100. the Archbiſhop of *Vienna* coming into *England*, *d* reported himſelf to have the Legatine power of all *Britain* committed unto him; which was with ſo much admiration of the Nation (as a thing had not been heard of before) that (if he had any) at leaſt he thought not fit to make uſe of his Commiſſion, but departed *à nemine pro Legato ſuſceptus, nec in aliqua Legati officio ſuvultus*.

d Eadmer. pag. 58, 41.

10. Fourteen years after *e Paſchalis* the II. by Letters of the 30. of *March* and 1. of *April*, expoſtulates with the King about ſeveral particulars; of which one is, his admitting neither Meſſenger nor Letter to be received, but by his leave; but ſee the words; *Sedis Apoſtolicæ nuncii vel literæ præter juſſum regiæ majeſtatis nullum in poteſtate tuâ ſuſceptionem aut aditum promerantur, nullus inde*

e Eadmer. p. 113. p. 116.

*inde clamor, nullum inde judicium ad Sedem Apoſtolicam deſtinantur*, &c. and the year following addreſt *f Anſelme* (Nephew to the late Archbiſhop, and after Abbot of St. *Edmundsbury*) hither, ſhewing by Letters he had committed unto his adminiſtration *vices Apoſtolicas in Anglia*. This made known here (though the bearer were not permitted to enter the Kingdom) the Clergy and Nobility gathered in Councel at *London*, concluded the Archbiſhop ſhould go to the King in *Normandy*, make known unto him the ancient cuſtom of the Realm, and by his advice to *Rome* (as being the perſon was moſt intereſſed in it) *ut hæc nova annihilaret*; from whence he obtained the Letter, or rather Declaration to the King and Clergy, the ſame Author hath *g* recorded. So by this care the matter was again ſtopt.

*f* Eadmer. *pag.* 118, 28.

*g pag.* 120.

11. The King 1119. *h* ſent his Biſhops to a Councel held by *Calixtus* the II. at *Reims*, at their departing gave them theſe inſtructions: Not to complain of each other, becauſe himſelf would right each of them at home; That he payed that rent his Predeceſſors had formerly done, and enjoyed likewiſe thoſe privileges had been formerly permitted them; That they ſhould ſalute the Pope from him, hear his precepts, but bring no ſuperfluities into his Kingdom: but ſee the words; *Rex Anglorum Prælatis regni ſui ad Synodum ire permiſit; ſed omnino ne alicujus modi querimoniam alterutrum facerent, prohibuit. Dixit, omni plenariam rectitudinem conquerenti faciam in terra mea: redditus ab anterioribus conſtitutos Romanæ Eccleſiæ ſingulis annis erogo, & privilegia nihilominus ab antiquis temporibus pari modo mihi conceſſa teneo. Ite, dominum Papam de parte mea ſalutate, & Apoſtolica tantum præcepta humiliter audite, ſed ſuperfluas adinventiones regno meo inferre nolite*, &c. Certainly this Prince did hold, the Pope with the advice of a Councel might labour to introduce ſuperfluous inventions, which the *Engliſh* were not tyed to receive, the diſputes of his Biſhops

*h* Ordericus Vitalis, 857. d. *pag.* 858, a.

shops be by him ended at home without carrying their complaints beyond Seas, according to the Assize *i* of *Clarendoun*; the King in nothing obliged to *Rome*, but in the payment of *Peter pence*, as his father had before *k* expresst himself.

*i* cap. 8.

*k* Baron. to. 11. An. 1079. n. 25. & Lanfranci Epist. 7. Eadmer. pag. 125, 51.

12. In *November* following the Pope and King had a *l* meeting at *Gisors* in *Normandy*, where *Calixtus* confirmed unto him the usages his Father had practic't in *England* and *Normandy*, and in especial that of sending no Legat hither, but on the Princes desire. Yet notwithstanding the same *m* Pope not fully two years after addrest another Legat to these parts: but he by the Kings wisdom was so diverted, *ut qui Legati officio fungi in tota Britannia venerat, immunis ab omni officio tali via qua venerat extra* Angliam *à Rege missus est*, &c.

*l* Eadmer. pag. 125, 51.

*m* Eadmer. pag. 137, 46. pag. 138, 21.

13. But here by the way the Reader may take notice, these words, *n Collata*, o *Impetrata*, *Concessa*, *Permissa*, used by our best Authors in speaking of the Rights of the Crown in points of this nature, do not import as if it had only a delegatory power from the Pope by some grant of his, as is phancied by those *p* would have it so; for we read of no such concessions from him, unless that of *Nicholas* II. of which in the next: But that they were continually exercised, the Pope seeing, and either approving, or at least making no such shew of his disliking them, as barr'd their practice, which by comparing the said Authors is plain. *Eadmerus*, *p.* 125, 53, 54. speaks as if these customs were *concessa*, *fungi permissa* from *Rome*; which *pag.* 118, 33, 40. he calls *antiqua Angliæ consuetudo, libertas Regni*, &c. So *pag.* 116, 22. he terms them *privilegia Patri & Fratri suo sibiq; à Romana Ecclesia jam olim collata*, &c. about which yet it is manifest, even *q* by him, the Court of *Rome* was ever in contest with our Kings about them, who maintained them as their Royalties against it, and challenged by *Henry* I. by no other title then *r dignitates, usus, & consuetudines*,

*n* Eadmer. pag. 116, 23. o *Ib.* p. 125, 21.

*p* Answer to Sir Ed. Cook, *de jure Regis Ecclesiast.* c. 9. n. 8. p. 200.

*q* Eadmer. p. 6, 23. & l. 2. per totum. pag. 113, 1. &c. p. 115.

*r* Hen. 1. Ep. apud Jorval. col. 999, 46, 49

*nes, quas Pater ejus in regno habuit*, &c. which the Pope ſ calls *honores quos anteceſſorum noſtrorum tempore Pater tuus habuerat*, and affirms to be *grata in ſuperficie, — interius requiſita & Legati vocibus expoſita, gravia & vehementiſſima paruerunt*: ſo far have Popes been from conferring the leaſt unto them. ſee *cap.* 3. *n.* 19.

ſ Eadmer. p. 59, 56.

14. It is true, things done by Princes as of their own Right, Popes finding no means to ſtop, would in former ages as later, by priviledge continue unto them. *Nicholaus Papa hoc Domino meo privilegium, quod ex paterno jure ſuſceperat, præbuit*, t ſaid the Emperours Advocate. And the ſame Pope finding our Kings to expreſs one part of their Office to be *regere populum Domini, & Eccleſiam ejus*, wrote to *Edward* the Confeſſor, *Vobis & poſteris veſtris regibus* Angliæ *committimus advocationem ejuſdem loci, & omnium totius* Angliæ *Eccleſiarum, & vice noſtra cum Concilio Epiſcoporum & Abbatum conſtituatis ubique quæ juſta ſunt.* As a few years ſince, u the Republick of *Venice* not aſſenting to ſend their Patriarch to an examination at *Rome*, according to a Decree of *Clement* the 8th. *Paulus Quintus* declared that *impoſterum* Venetiarum *Antiſtites* Clementis *decreto eximerentur*: ſo that now that State doth by an exemption what they did before as Soveraign Princes. Beſides, Kings did many times as grants ask thoſe things of the Pope, they well underſtood themſelves to have power of doing without him. x *Henry* the 5th. demanded of *Martin* the 5. five particulars: to which his Ambaſſadors finding him not ſo ready to aſſent, told him *ſe in mandatis habere, ut coram eo profiteantur, Regem in iis ſingulis jure ſuo uſurum, utpote quæ non neceſſitatis, ſed honoris cauſa petat, & ut publicam de ea re coram univerſo Cardinalium cœtu proteſtationem interponant.* And to the ſame purpoſe there are ſundry examples yet remaining on record, where y the King on the Petition of the Commons for redreſs of ſome things (of Eccleſiaſtick

*Vide cap.* 5. *n.* 4.

t Baron. 11. *Ann.* 1054. *n.* 23.

u Maurocen. *Hiſt. Ven. Ann.* 1601. *p.* 629. *c. Ann.* 1609. *p.* 887. *b. Card.* Oſſat. *Epiſt. Romæ* 17. *Sept.* 1601.

x *Narrantur hæc p.* 56, 57. *in vita* Henrici Chichley *ab* Arthuro Duck *edit.* 1617.

y *Rot. Parl.* 17. Ed. 3. *n.* 59. *in fine.* 25. Ed. 3. *Oct. purif. n.* 13. 7 H. 4. *n.* 114. 3 H. 6. *n.* 38.

cognizance) amiss, first chuses to write to the Pope; but on his delay, or failing to give satisfaction, doth either himself by Statute redress the inconvenience, or command the Archbishop to see it done.

15. But here before I proceed any farther, because it cannot be denied, in former times there was often intercourse between the Church of *England* and *Rome*, and such as were sent from thence hither are by some stiled *Nuncii*, by others *Legati*; I think it not amiss to consider what the cause was one side so much opposed the sending a Legat, and the other so laboured to gain it.

16. After the erection of *Canterbury* into an Archbishoprick, the Bishops of that See were held *quasi alterius orbis Papæ*, as *Urban* the 2. *z* stiled them, did only exercise a *vices Apostolicas in Anglia*, that is used the same power within this Island the Pope did in other parts; the one *b* claiming, because *Europe* had been converted by disciples sent from *Rome*; the other, that he had sent *c* Preachers through *England*. And is therefore called frequently in our writers *d Princeps Episcoporum Angliæ*, *e Pontifex summus*, *f Patriarcha*, *g Primas*, and his seat *h Cathedra Patriarchatus Anglorum*; and this not in civility only, but they were as well *i sic habiti* as *nominati*. It is true, the correspondency between it and the *Roman* was so great, they were rather held one then two Churches: yet if any question did arise, the determination was in a Councel or Convocation here; as *k* the deposing *Stygand*, *l* the settling the precedency between *Canterbury* and *York*, *m* the instructions I mentioned of *Hen.* 1. to his Bishops, *n* the right of the Kingdom that none should be drawn out of it *auctoritate Apostolica*, do enough assure us, if recourse were had to *Rome*, it was only *o ut majori Concilio decidatur quod terminari non potuit*, as to the more learned Divines, to the elder Church, of greatest note in *Europe*, by whom these were conver-

ted,

*See cap.* 4. *n.* 20.

*z* Malms. *de Pontif. l.* 1. *in* Anselm. *fol.* 127. 15. Gervas. Dorobern. *col.* 1327, 58.

*a* Eadmer. *p.* 58, 44.

*b Ibid. p.* 115, 17.

*c* Diceto *col.* 437, 64.

*d* Eadmer. *pag.* 27, 34. *principi vestro* Anselmo.

*e Ibid. p.* 107, 33. *pag.* 113, 47.

*f* Gervas. Dorobern. *col.* 1663, 55.

*g* Eadmer. *p* 30, 9.

*h* Eadmer. *pag.* 113, 47. *continuatio* Florent. Wigorn. *Ann.* 1136. *pag.* 513.

*i* Gervas. Dorobern. *col.* 1663, 55.

*k* Florent. Wigorn. *Ann.* 1070.

*l post, n.* 18, 20, 60.

*m supra n.* 12.

*n vid.* Mat. Paris *Ann.* 1246 *p.* 699, 10. *vide post n.* 38. *in textu & in margine.*

*o* Malms. *fol.* 152. *b.* 12. *sect n.* 8.

ted, and therefore more reverenced by this, as that was moſt ſollicitous of their well-doing, and moſt reſpected for their wiſdom. All which is manifeſt by that humble Letter † *Kenulphus* and others of *Mercia* wrote about 797. to *Leo* the 3. wherein it plainly appears, he ſeeks to that See for direction, becauſe the converſion of the Nation firſt came from thence, and there reſided in it men of ſound learning, whom he doth therefore deſire as *quibus à Deo merito ſapientiæ clavis collata eſt, ut ſuper hac cauſa* (which was the placing an Archiepiſcopal chair at *Litchfield*,) *cum ſapientibus veſtris quæratis, & quicquid vobis videatur nobis poſtea re,cribere dignemini.* By which it is clear his inquiſition was as unto perſons of profound literature, (had the key of knowledge conferred on them) not as to thoſe had auctority over this Church.

† *Ibid. de Regibus lib.* 1. *fol.*16.

17. As for acts of Eccleſiaſtick auctority, what proceeded not from the King, did from the Archbiſhop, who was not at all commanded by any, p *nullius unquam legati ditioni addictus*, but q preceded them all. r None did wear a Miter within his Province, or had the Croſier carried, nor laid any excommunication; and when he did, the ſ Clergy of the place did teach, both from the King and Archbiſhop, not to value it, on this ground, that *in Diœceſi Archiepiſcopi Apoſtolicam non tenere ſententiam.*

p Gervas. Dorobern. *col.*1663,55.
q *Ibid. col.* 1485,63.
r *Non eſt ante hæc tempora Archiepiſcopo* Cantuarienſi *talia illata injuria, ut in Provincia ejuſdem Archiepiſcopi, imo & in Eccleſia, ut de cruce ſiliam, Legatus aliquis mitratus incederet.* Gervas. Dorobern. *Ann.* 1186. *col.*

18. As for Councels, it is certain none from *Rome* did, till 1125. call any here: if they did come to any, as to *Calcuith*, the King upon the advice of the Archbiſhop t *ſtatuit diem concilii.* So when *William* the firſt held one at *Wincheſter* 1070. for depoſing *Stygand*, though there came to it three ſent from *Alexander* the ſecond, yet it was held u *jubente & præſente Rege*, who was x Preſident of it. The difference touching precedency between the

1485, 63. ſ Ger. Dorobern. *Ann.* 1187. *col.*1531, 38. t *Concil.* Spelman. *pag.* 293. u Florent. Wigorn. *Ann.*1070. *pag.*434. x *Vita* Lanfranci *cap.*7. *p.*7. *col.*1. d.

Sees of *Canterbury* and *York* having been before the ſame Pope, and by him ſent back for a determination at home, it is obſervable, that in a Councel ſaid therefore to be called *ex præcepto* Alexandri *Papæ annuente Rege*, the Popes Legat ſubſcribed the 16th after all the *Engliſh* Biſhops: as is truly y recorded in the *Antiquitat. Britannicæ Eccleſiæ p.* 95, 40. agreeing with a very ancient Ms. Copy I have ſeen of the ſaid Councel; as *Diceto* and others do z rank him after the King, *Canterbury*, and *York*. If any ſhall ask whether I have met no Copies in which he was placed otherwiſe, I muſt confeſs I have ſeen ſome books wherein he was above the *Engliſh* Biſhops, next after the Queen; but they were only late Tranſcripts, not of any Antiquity, as in a *a* book of *Croyland* writ ſince the beginning of *Henry* the 7.

y Note, you muſt ſee theſe Subſcriptions in the *London* edition 1572. for in that of *Hanau* 1605. they are for the moſt, (I know not on what warrant,) omitted.

z Diceto *col.* 485, 24.

a *In Bibliotheca* Cotton *fol.* lxxiv.

19. The Pope for many years now paſt, for being a Spiritual Paſtor, and Patriarch of the Weſt, hath been treated with more reverence than any Biſhop, and for being a potent temporal Prince, with more obſervance than meerly a Ghoſtly Father. A *b* grave writer notes, *Henry* the firſt having gone through the troubles ſtirre on him with his brother, and likewiſe *Anſelm*, *ſubjugatis omnibus inimicis ſecurus erat, nec aliquem ut primitus formidabat præter Papam, & hoc non propter ſpiritualem, ſed temporalem poteſtatem.* Which as it is recorded of that Prince, ſo no queſtion is true of many others.

b Mat. Paris *hiſt. minor. Ann.* 1107.

20. By which we may ſee, when *Rome* did in former times *Apoſtolica authoritate præcipere*, it was to Biſhops (whom he ſtiled his brothers,) no other then ſuch fraternal commands the elder may and doth ordinarily lay upon the younger brother, of whom he is ſollicitous; ſuch as St. *Pauls* were *c* to the *Theſſalonians*, *d Philemon*, &c. No other then of late *Calvins* were to *Knox*, who being choſen by certain of *Franckford* to be Preacher unto them, *e their vocation* he obeyed, albeit *unwillingly, at the* commandment *of that notable ſervant*

c 2 *Theſſ.* iii. 12.

d *Philem.* 8.

e Knox *Hiſt. Church of* Scotland *p.* 8. *edit.* 1644.

*of*

*of God John Calvin*, &c. And a little after the Lords of *Scotland* ſending for him home, f did accompany their letters to him with others to *Mr. Calvin, craving of him, that* by his auctority he would command *the ſaid John once again to viſit them*, &c And truly whoſoever will without partiality ſeriouſly conſider the whole contexture of our Laws and Hiſtories, weighing one circumſtance with another, muſt conclude the Popes commanding to have been *volentibus*, not *nolentibus*, (as g *St. Hierom* ſays thoſe of a Biſhop ought to be) for if diſ.ked, his precepts were h queſtioned, *i* oppoſed, *k* thoſe he ſent not permitted to meddle with that they came for, their prohibitions that others ſhould not, neglected: The *Engliſh* having ever eſteemed the Church of *Canterbury* in Spirituals, that is *quæ ſunt ordinis*, without any intervening ſuperior l *omnium noſtrum mater communis ſub ſponſi ſui* Jeſu Chriſti *diſpoſitione*; in other things, as points of Government, the ordering that of right and cuſtom ever to have belonged to the King aſſiſted † with his Councel of Biſhops, and others of the Clergy, who was therefore called *Vicarius Chriſti*, &c. as I ſhall ſhew hereafter more at large. m The Church of *England* holding that of *St. Auguſtine* an undoubted truth, *In hoc Reges, ſicut eis divinitus præcipitur, Deo ſerviunt in quantum Reges ſunt, ſi in ſuo regno bona jubeant, mala prohibeant, non ſolum quæ pertinent ad humanam ſocietatem, verum etiam quæ ad divinam religionem*: and accordingly our Kings, ſo far as any Laws or Records of their actions are extant, from *Ethelbert* by the *Saxons* to the Conqueſt, and from the *Normans* to theſe later times, have upon occaſion exerciſed a power, ſhewing ſuch titles were not in vain conferred on them. Neither did any deciſion, though never ſo punctually

f *Ibid. p.* 110.

g *Epitaph.* Nepotiani *ad* Heliodorum *to.* 1.

h Eadmer. *pag.* 92, 40.

*p.* 125, 29.

*i* Gervas. Dorobern. *col.* 1315, 66. 1316, 8. & 1318, 39. 1359, 41, 59. Wmus Thorn 1802, 26. 1848, 28. and theſe may ſerve in lieu of many others may be alledged.

*k* Ger. Dorobern. *col.* 1558, 54.

l *Ibid. col.* 1663, 24. *col.* 1615, 62.

† *Si Epiſcopi tramitem juſtitiæ in aliquo tranſgrederentur, neceſſe Regi*, (viz. alone,) *ſed canonum judicium, ſine publico & Eccleſiaſtico Concilio illos nulla poſſeſſione privari debuiſſe; Regem id non rectitudinis zelo, ſed commodi ſui compendio feciſſe.* Malms. *fol.* 103. 18. reports this ſaying of a Legat *ſee n.* 24. m *Contra* Creſcon. Grammat. *l.* 3. *cap.* 51, *to.* 7.

had

had in *Rome*, unleſs the parties agreed, ſtint the ſtrife, till the King concurred with it; as the frequent determinations on the behalf of *Canterbury* in point of ſuperiority above *York*, found in *n Malmsbury* and others, may teach us, which yet never received a final end, till *Edward* the 3. under the great ſeal ſet a *o* period to that long controverſie.

21. But after the Pope began to think (or rather to ſay) himſelf had only *p plenitudo Eccleſiaſticæ poteſtatis*, *q* that no Councel could give Laws to him, but all receive ſtrength from him, and the Canoniſts flattery extended to declare him *r ſupra jura, & in eo ſufficit pro ratione voluntas*; his miſſives ran in an higher tone than formerly, and his commands, which were at firſt according to *ſ* the example of *St. Paul* joyned with exhortations, entreaties, and the like, to carry *t Apoſtolica auctoritate comprimere*; and to th' Archbiſhop demurring in th' execution of them, *u tuum candelabrum concutiemus, & tantam præſumptionem cum gravibus uſuris exigemus*; and, *x ſi mandatum noſtrum neglexeris vel diſtuleris adimplere, quia juſtum eſt ut ei obedientia ſubtrahatur qui ſedi Apoſtolicæ neglexerit obedire, venerabilibus fratribus ſuffraganeis tuis per ſcripta noſtra mandavimus, ut tibi reverentiam non impendant. Quod ſi &c. tibi feceris exhiberi, ſcias te tunc ab Epiſcopali dignitate ſuſpenſum*, &c. phraſes and manners of writing denoting much more of auctority than was uſed by Popes in elder times. By which is manifeſt, the point in difference between the Archbiſhop and the Pope to have been not the ſending a Legat hither, but of one with a power above him, to command the *Engliſh* Clergy, that is to remove their dependency from him to *Rome* as a ſuperior over him.

22. To his gaining which theſe uſages of th' Archbiſhops were great ſtops, drawing ſo near an equality, and ſo pregnant teſtimonies of his no-divine right to meddle

*n* Malms. *de Pont. lib.* 1. *fol.* 118, 2. *to fol.* 120, b.
*o Antiquit. Britan. Eccleſiæ, in* Simone Iſlep. *p.* 269, 15.
*p De auctoritate & uſu Pallii cap.* 4.
*q De Electione & electi poteſtate c.* 4.
*r* Lyndwood *de temp. ordinand. cap.* 2. *ad verbum* expreſſe.
*ſ Philip.* iiii. 3.
*t* Wm. Thorn. *col.* 1801, 53.
*u Ibid.* 1814, 34.
*x* Gervas. Dorobern. *Ann.* 1198. *col.* 1602, 64.

meddle here, not eaſie to be removed, unleſs ſome from the Pope were admitted into the Kingdom, that might at leaſt give an eſſay to the guiding the *Engliſh* Church after the Papal intereſt: but that, how earneſtly ſoever preſt, came to no effect till 1125. *Johannes Cremenſis*, a perſon well underſtanding (as *y* appears by his carriage ſix years before at *Reims*) the deſigns of *Rome*, *z* came to the King in *Normandy*; where after ſome ſtay, his journey hither was permitted; with what qualifications I find not; but coming with Letters to *Canterbury* at Eaſter, performed the Office of the day in a more eminent chair as an Archbiſhop, for ſo I Engliſh *loco ſummi Pontificis*, according to the *a* phraſe of thoſe times, and, though a Cardinal Prieſt, uſed *inſigniis Pontificalibus* the habit of a Biſhop: which being *b* an unuſual novelty, paſt not without ſcandal. But in a Councel which he held and preſided in at *London*, the Kingdom took more offence: I ſhall deliver it in my authors own words; *c Totam Angliam in non modicam commovit indignationem: Videres enim rem eatenus regno Anglorum inauditam, Clericum ſcilicet Presbyterii tantum gradu perfunctum, Archiepiſcopis, Epiſcopis, Abbatibus, totiuſque regni nobilibus qui confluxerant, in ſublimi ſolio præſidere; illos autem deorſum ſedentes, ad nutum ejus vultu & auribus animum ſuſpenſum habentes.* From whence we may conclude it a thing before not heard of, for any Legat, though a Cardinal, to precede Biſhops, (the firſt Councel in which they preceded Archbiſhops I take to have been the Councel of *Vienna* 1311. where the Archbiſhop of *York* is noted to have been placed *d primus & præcipuus poſt Cardinales, & poſt Trevirenſem Archiepiſcopum*;) or be ſeated in a more eminent place over them; (I have *e* ſhew'd they did not ſubſcribe in *Engliſh* Councels above them;) that theſe mutations were ſcandalous to the Nation.

23. As this is the firſt Eccleſiaſtick Synod called and managed

*y* Ordericus Vitalis *pag.* 862.

*z* Simeon Dunelmenſis *Ann.* 1125, *col.* 251, 61.

*a* Eadmer. *pag.* 107, 33. *pag.* 113, 4. Ger. Dorobern. *col.* 1663, 55.

*b* *Inuſitata novitas.* Dorobern. *Ibid.*

*c* Ger. Dorobern. *Acta Pont. ibid. col.* 1663, 42.

*d* Thomas Stubs, *Act. Pont. Ebor. col.* 1730, 30.

*e* *Supra n.* 18.

managed by any Legat from *Rome*; ſo before his credential f Letters from *Honorius* the 2. as well to the Lay as Clergy, I have not met with the Text g *Paſce oves meas* uſed to prove him the general Paſtor of all the World: it is true, *Paſchalis* the 2. h ten years before uſes it to prove his auctority over i Biſhops; but neither doth k *Anſelm* 1093 produce it, neither doth this Cardinal at *l Reims* 1119 mention it, though either of them did alledge as many places of Scripture as were then common to prove the extent of his power; and *Petrus Bleſenſis*, that lived a little after, *m* interprets it as ſpoken to all Biſhops, and to import no other than *Evangelizare*: a certain ſign if that Expoſition were hatch't before, it was not common, which afterward approved by n St. *Bernard*, and inſerted into o the Canon Law by *Boniface* the 8. about the year 1300. is now ſtood upon as the Baſis of Papal greatneſs. But to return to that we were on.

f *Apud* Sim. Dunelm. *col.* 252,22.
g *Joh* xxi. 15, 16,17.
h *Apud* Eadmer. *pag.* 115, 9. *Ann.* 1115.
i *Eccleſiarum præpoſiti.*
k Eadmer. *pag.* 27,37.
l Ordericus Vitalis *pag* 862, *ſſ omnes.*
m Petr. Bleſenſ. *Epiſt.* 148.
n *De conſideratione ad* Eugen. *lib.* 2. *cap* 8.
o *Ext. Com. de Majoritat. & obedian. c.* 1.

24. The Archbiſhop ſenſible of theſe indignities proceeds not as his predeceſſor, by joynt Councel of the Biſhops, Abbots and Nobility, but hath himſelf recourſe to *Rome* (who already knew *p ſe convertere ad oratorum verſutias, dummodo conſulat ſuis profectibus* where the Pope, (which was *Honorius* the 2.) committed unto him *q vices ſuas in* Angliâ & Scotiâ, & *Apoſtolicæ ſedis Legatum conſtituit*: So that he who before was *r Primas* Angliæ, Scotiæ & Hiberniæ, *necnc adjacentium Inſularum*, that none elſe *ſ gerebat vices Apoſtolicas in Britannia*, and this of his own right, without any delegatory power, might now doing the ſame be ſaid to do it by a power derived from *Rome*. An invention highly advantagious to the Papacy: for before the King and Archbiſhop, or rather the Archbiſhop by the Kings will and appointment, had ever taken cognizance of all matters of Epiſcopacy, as the erection of Biſhoprics, diſpoſing and tranſlating Biſhops, &c. So *Paſcha-*

p Malms. *de Pont. lib.* 1. *fol.* 131. b. 39.
q Gervas. Dorobern. *col.* 1663, 64.
r Eadmer. *pag.* 14, 13. *pag.* 30, 9. *pag.* 93, 3
ſ *Ibid.* 58, 43.

t

the II. expoſtulates with *Hen.* the I. *t* that *præter auctoritatem noſtram Epiſcoporum tranſlationes præſumitis*, &c. and the * depoſing of them to have been in a Synod *u* Hiſtorians of all times before aſſure us, even unto *Lanfrank*, who *x* attempted it upon ſmall grounds againſt *Wolſtan*. As for dividing Biſhopricks, and erecting new where none were, *y Theodore* did five in *Mercia cum conſenſu Regum & principum*, (without ever ſending to *Rome*) as he did others *z* elſewhere. And *Henry* the I. long after placed Epiſcopal Chairs at *Ely* and *Carliſle*, without acquainting the Popes with it. It is true, *Anſelme* an *Italian*, either not knowing the rights of the Kingdom, or rather out of a deſire to intereſt the Pope in every thing, writes to him of *Ely*, that *a de veſtræ pendet auctoritate prudentia* to add ſtrength to Eccleſiaſtick ordinances of this nature; yet it is clear by his very Letter, the King, Biſhops and Nobility had already concluded on it, with whom he had concurr'd, asking *Paſchalis* aſſent after the deed done: which ſhews rather he did it in civility, then of neceſſity, *ne à poſteris ulla præſumptione violetur*, that no cavilling might ariſe in the future to the diſturbance of an action well ſettled, that paſt by ſo great advice, as not only the *Engliſh* Church, but the firſt Biſhop of the world and Patriarch of the Weſt joyned in ſeeing the needfulneſs of it. And it is here not unworthy the remembring, that Queen *Mary*, how much ſoever addicted to *Rome*, yet admitted the *b* Biſhops of thoſe Sees her Father had erected during the ſchiſm (as they called it) to ſit in Parliament, before any confirmation of them by the Pope.

25. Of theſe and the like, though caſes proper for the *c* Papacy alone, yet being without ſcruple exerciſed

t *Apud* Edm. *p.* 115, 48. & * *pag.* 129, 52. ſee *n.* 20.

u *See* Bed. *l.* 4. *c.* 2, 6. Gerv. Dorobern. *col.* 1638, 37.

x Mat. Paris 1095, *pag.* 20, 46. Ailredus *col.* 406, 10.

y Flor. Wigor. *pag.* 559

z Bed. *l.* 3. *c.* 7. *l.* 4. *c.* 6, 12. *l.* 5. *c.* 19.

a Eadmer. *pag.* 95, 50.

b Gloceſter *and* Cheſter *in Parliament* 1 *Mar.* 2 *April* 1554. *Parl.* 2. *item Parl. the* 3. 12 *Nov.* 1554. 1 *& 2. Ph. & Mar.*

*Journal des Seigneurs*: yet the Act of reconciling this Kingdom to *Rome*, and confirming thoſe Biſhopricks by the Pope, paſt not till the 30. of *November* after, however they were reputed lawful Biſhopricks before. c *Cauſ.* 3. *quæſt.* 6. *cap.* 7. *& de Tranſlat. Epiſt. cap.* 2. Bellarm. *lib.* 4. *de Eccleſ. cap.* 8. *Sect. Ratio*, &c.

in the Church of *England*, and no controul from *Rome*, it would not be easie to dispossess the Arch-bishop of medling with, by strong hand, especially on an essay made before in the case of *Wilfred*, it being affirmed, d *quod esset contra rationem, homini jam bis à tota Anglorum Ecclesia damnato, propter quelibet Apostolica scripta communicare*: the way therefore of making him the Popes Legat was invented, by which those particulars he did before without interruption of his own right, he (whom it was not easie to barr of doing them) might be said to act as his agent: which was about * this time first committed unto him of any Arch-bishop of *Canterbury*; though e *Baronius*, not finding how the very same past before, phancies *Theodore* to have done them, *cui totius Angliæ à Romano Pontifice veluti Apostolicæ sedis Legato cura credita erat*; who certainly if he were his Legat, was very immorigerous in the case of *Wilfred*. But to leave that as a *Chimæra* not to be assented to, mentioned by no ancient Author, it is true, not long after he conferr'd the title of *Legatus natus* on the Arch-bishop, f of which hereafter.

d *Apud* Malmsb. *fol.* 152, a. 34.

* 1127.

e Baron. *tom.* 8. *An.* 676. *n.* 10.

f *n.* 40.

26. To return to the Arch-bishop, who came home with this Legatine power 1127. g crowns the King at *Windsor*, and in *May* following holds a Councel at *Westminster*, *cui præsedit ipse, sicut Apostolicæ sedis legatus*; which is the first Councel any Arch-bishop is noted to have held as a Papal Legat; and during his life, which was seven years, *England* did not see any other.

g Florent. Wigorn. *An.* 1126, & 1127. *& alii.*

27. After his death the See of *Canterbury* lay two years vacant, so a fit time for the Pope to look this way, especially K. *Stephen* making it part of his title, that he was h confirmed by him in his Kingdom: therefore 1138. *Innocentius* the second sent hither *Albericus* Bishop of *Hostia*, the second stranger I find exercising the Legatine auctority in *England*; yet he was not at first received for one, but i *vix tandem pro reverentia Domini*

h *Apud* Malmsb. *f* 101. J. Hagulstad. *col.* 259, 9. R. Hagulstad. *col.* 314, 18. *v. col.* 313, 32.

i Ger. Dorob. *col.* 1344, 6.

*Domini Papæ.* He indeed went farther then ever any had, for he not only called the Clergy *Apoſtolica auctoritate* (as our Hiſtorians term it) to a Synod, (I confeſs he avoids the word in his Letters of Summons, ſtyling it *k colloquium*, perhaps not to enter into diſpute with the King, who then took himſelf to be the only *l* caller of them, and the allower of what they did) but did farther command the Prior and Convent of *Canterbury*, &c. *m* to chuſe ſuch an Arch-biſhop, *cui ſacrorum canonum auctoritas in nullo valeat obviare, cui comprovinciales Epiſcopi pariter debeant aſſentire, & cui Dominus Rex nec poſſit nec debet aſſenſum ſuum juſte denegare*: but farther not at all intromitting himſelf. And in the Councel he held, amongſt other particulars, he ordained, that if any injured an Eccleſiaſtick perſon, *n Niſi tertio admonitus ſatisfecerit, anathemate feriatur, neque quiſquam ei præter Romanum Pontificem, niſi mortis urgente periculo, modum pœnitentiæ finalis injungat.* This is the firſt that by Canon, ought done in *England* was referr'd to *Rome*, as having a greater power then the *Engliſh* Biſhops to abſolve: (of the Laws of *Henry* the I. I ſhall ſpeak *o* hereafter.) But whether it were not here much regarded, or the exceſſes uſed by King *Stephen* againſt certain Biſhops, and the prohibiting a Councel held at *Wincheſter* to ſend to *Rome*, as *p* againſt the dignity of the Realm, or that he freed of impriſonment deſired to make ſo potent a party, as the Clergy then was, more of his ſide, I cannot ſay; but aſſuredly it was again renewed in a *q* Councel at *London* about ſome four years after.

28. The ſame Pope 1139. conferr'd upon *Henry*, K. *Stephens* Brother, and the potent Biſhop of *Wincheſter*, this Legatine power, which was by him publiſh't in a Councel at *Wincheſter*, where his faculties were read *r* bearing date the 1. of *March*; and being as well *ſ Angliæ Dominus* by reaſon of the power he held with *Stephen*, as *Apoſtolicæ ſedis Legatus*, he called thither

k Ger. Dorob. *col.* 1346, 58. *l* Eadmer. *p.* 6, 29 *p.* 24. 11.
m Ger. Dorob. *ibid. lin.* 65.
n *Cap.* 9. *apud* Gerv. Dorob. 1348. *&* R. Haguſt. 328.
o *n.* 30.
p Malms. *f.* 103. *a.* 1. *b.* 54, 35.
q H. Hunt. *fol.* 215. *a.* 36. *An.* 1142, 8 Steph.
r Malms. *f.* 103. *a.* 31.
ſ Ger. Dorob. *col.* 1343, 44.

thither the Arch-biſhop that had then ſome conteſt with the Monks of St. *Auguſtines*, (whom the Pope general y favour'd againſt him) referr'd to his deciſion from *Rome*, ſo that he cauſed both parties the *t* ſecond time to appear there before him 1143. as Legat, and by compromiſe ended the buſineſs. Yet this calling of the Arch-biſhop *u* unto him was not taken well: and the ſame year 1143. he did by Apoſtolick command reſtore *Jeremy*, removed by *Theobald*, (notwithſtanding his appeal to *Rome*) to be Prior of *Canterbury*: which reſtitution the ſaid Prior did not think fit to ſtand by, but for avoiding trouble took an 100. marks to pay his debts, and placed himſelf in St. *Auguſtines*. By theſe carriages there grew great diſtaſtes between theſe two great Prelats: the one as Arch-biſhop prohibited *Wincheſter* *x* all Eccleſiaſtick functions, however the Popes Legat; and both apply themſelves to the Pope; from whence our Hiſtorians do fetch the uſe of Appeals to *Rome*; as indeed there could not well be any cauſe of them before: for as the one caſe is the firſt ever any Arch-biſhop was called out of his Dioceſs to make anſwer to any Legat as his Superiour; ſo I believe it will be hard to give an example of ought done by the Archbiſhop in in his own Biſhoprick till now alter'd by a forreign auctority. And here, having mentioned the introducing of Appeals, the Reader will give me leave to digreſs a little, both to ſhew what is meant by them, and the manner of proſecution of them; and then *y* to return, and obſerve the event of the Arch-biſhops and Legats in the Court of *Rome*.

29. It cannot be denyed, the word *Appeal* to have been uſed in former times with reference to the Papacy. *z Cum præſul ſedem Apoſtolicam appellaſſet*, ſayes *Malmſbury* of *Wilfred*; and a Councel held in *Italy* concerning him, *a Apoſtolicam ſedem de ſuâ cauſâ appellans*: and

*t* W. Thorne *col.* 1853. 32.

*u* Ger. Dorob. *col.* 1665, 24. *indignatus Theobald.*

*x* Jo. Hagulſt. *col.* 275, 42 *interdixit Epiſcopo, Epiſcopale & Sacerdotale officium.*

*y Num.* 40.

*z* Malmſ. *f.* 149 *a.* 50.

*a* Bed. *l.* 5. *c.* 20 *& in* Ingulph. *MS. ſeu additionibus ejus, in Bibl.* Cotton.

and ſo of ſome others. Yet nothing is more certain then thoſe in whoſe time this was did not at all hold the Pope to have any power of righting him, other then by interceſſion; not as a ſuperior Court, by ſentencing in his favour, to undo what had paſt *Theodore*; († without whoſe aſſent the King could not have deprived him of his ſeat,) for when the Popes *b* Letters were brought hither for his reſtitution, *Egfrid*, with the adviſe of his Biſhops, not only refuſed, but clapt *Wilfred* in priſon; and after his death the *c* Pope ſending others *vita graves & aſpectu honorabiles*, *Alfrith* though he received the men with great reverence, yet would by no means admit the reſtauration they came about, but affirmed it againſt reaſon to do it (he having been twice condemned) *propter quælibet Apoſtolica ſcripta.* And as this was in a time when Chriſtianity moſt flouriſhed in this Nation, having in general *d fortiſſimos Chriſtianoſque Reges*; ſo of the Kings that did it, of *Egfrid* *e* *Beda* left, that he was *piiſſimus & Deo dilectiſſimus*: neither can he find any other thing to blame in *Alfrith* worthily, and the Biſhops that did *f* concur in the action were *g* holy men, well ſeen in divine and ſecular learning; ſo that it is not imaginable any thing paſt them not warranted by the Doctrine and Rules of this Church.

† Stubs *de Archiepiſc. Ebor. col.* 1691, 10.
*b* Malms. *fol.* 150, *a.* 48.
*c* *Ibid. fol.* 152, *a.* 32, 34.
*d* Beda *l.* 4. *c.* 2
*e* *Apud* Malmſ. *f.* 10 *b* 23, 36.
*f* Stubs *de Archiepiſc. Ebor. in* Wilfrido *col.* 1691, 10.
*g* Beda *l.* 4 *c.* 2 *c.* 9. *l.* 5. *c.* 20.

30. For the underſtanding of which, we are to know the word *Appeal* is taken ſeveral wayes; ſometimes *h* to accuſe, ſometimes for referring our ſelves to ſome one for his judgment; ſuch was that of *Wilfreds* appealing to *Rome*, as to a great ſpiritual Doctor and Church whoſe judgment was very venerable in the World, as of late *John Calvins* and the Church of *Geneva* was to them of *Scotland* and *Frankford*, &c. another way we take it for removing a cauſe from an inferior to a ſuperior Court or Judge, that hath power of diſanulling whatſoever the former did; and this is that our Hiſtorians affirm not to have been in uſe till after.

*h* *Blaſius Daſium de proditione appellabat.* Liv. *lib.* 26. *ſuch were thoſe Appeals in Parliament, the* 11. *and* 21. *of* Rich. II. *which might be otherwiſe called accuſations.*

i Eadmer. p. 39, 21, 30.

ter 1140. It is certain, long after *Wilfred i* the Bishops and Nobility did assure *Anselme*, that for any of the great ones, especially him, to have recourse to *Rome* without the Kings leave, to be *inauditum & usibus ejus omnino contrarium*; and therefore required of him an Oath, *quod nunquam amplius sedem Sancti Petri, vel ejus vicarium, pro quavis qua tibi ingeri queat causa appelles.* I know *Anselm*, an *Italian*, where the opinion of the Papal absoluteness had now begun to root, did maintain this was *Petrum abjurare*, and that *Christum abjurare*, and is the first of our Bishops spake any thing in that sort; with whose sense the Kingdom did not concur in it. For it is manifest, in those dayes and after, Appeals to *Rome* were not common. In the year

k *Apud* Eadm. p. 113, 3.

1115. *k Paschalis* the II. expostulates with *Henry* the I. that *Nullus inde clamor, nullum judicium ad sedem Apostolicam destinatur*: and again, *l vos oppressis Apostolica sedis appellationem subtrahitis.* And *Anselme* himself speaking of the proceeding of the King in a case by him esteemed only of Ecclesiastick cognizance, lays down

l *Ib.* p. 115. 33.

m *pag.* 85, 41.

the manner to be, that it should be only *m ad singulos Episcopos per suas parochias, aut si ipsi Episcopi in hoc negligentes fuerint, ad Archiepiscopum & Primatem*: adding nothing of carrying it to *Rome*, of which I know no other reason, but that it was not then usual to remove causes from the Primate thither. Yet after this, either the importunity of the Pope prevailed with the * King, or the passage was inserted after his dayes into the Lawes carry his name; (as some other in the same Chapter may seem to have been) but certain in them though he give for a rule that of Pope *n Fabian* or *Sixtus* III. *ibi semper causa agatur ubi crimen admittitur*, yet a Bishop erring in faith, and on admonition appearing incorrigible, *o ad summos Pontifices* (the Arch-bishops) *vel sedem Apostolicam accusetur.* This is the only cause wherein I find any *English* Law approve a forreign judicature.

* Henry I.

n Fabian. Ep. 3. & Sixti 3. c. 1. *Concil. & apud* Gratian. c. 3 q. 6. *cap.* 1. *Leg.* Hen. I. *cap.* 5. *p.* 178, 28.

o *Leg.* Hen. I. *pag.* 179, 9.

31. But

31. But whether from the countenance of this Law, or the great oppressions used by the Legat King *Stephens* Brother, or the frequency of them, it is certain, 1151. Appeals were held a *p* cruel intrusion on the Churches Liberty; so as in the Assize at *Clarendoun* 1164. collected by the body of the Realm, *q* the 8. Chapter is solely spent in shewing the right of the Kingdom in that particular: which *r Johannes Sarisburiensis* interprets, *quod non appellaretur pro causâ aliquâ ad sedem Apostolicam, nisi Regis & Officialium suorum venia impetrata.* Upon which the Bishop of *London* moved *Alexander* the third, *Beckets* cause might be determined *f appellatione remota:* at which the Pope seems to be moved, and told him, *hæc est gloria mea quam alteri non dabo.* And though it seems by a *t* Letter of the same Prelat, the King would have restrained his power only to such as had first made tryal of receiving justice at home, claiming *ex antiqua regni institutione, ob civilem causam nullus clericorum regni sui fines exeat*, &c. and that too, if amiss, would have corrected by the advice of the *English* Church: yet while the Arch-bishop lived, that would not be hearkened to; but after his death, at the peace which 1172. ensued between him and the Church of *Rome*, it was only concluded, the King not to hinder Appeals thither in Ecclesiastick causes, yet so as a party suspected before his going was to give security not to endeavour *malum suum nec regni.* But the Kingdom meeting in Parliament at *Northampton* 1176. not fully four years after, would not quit their interest, but did again renew the Assize of *Clarendoun*, using in this particular somewhat a more close expression: * *Justiciæ faciant quærere per consuetudinem terræ illos qui à regno recesserunt, & nisi redire voluerint infra terminum nominatum, & stare in curia Domini Regis, utlagentur &c.* in effect the same as *Gervasius Doroberniensis* well understood, who tells us, *u Rex Angliæ* Henricus

*p* Hunt. *f.* 227. b. 7. *& alii.*
*q* Ger. Dorob. *col.* 1387.
*r Epist.* 159. *pag.* 254.
*f* Ger. Dorob. *col.* 1396.
*t Apud* Hoveden. *Ann.* 1166. *fo.* 287. b. 44. *apud* Dicet. *Ann.* 1168.
* *Apud* Hoved. *f.* 314. b. 3.
*u* Ger. Dorob. *Ann.* 1176. *col.* 1433. 19.

Henricus *convocatis regni primoribus apud* Northamptoniam, *renovavit aſſiſam de* Clarendonia, *eámque præcepit obſervari; procujus execrandis inſtitutis beatus martyr* Thomas Cantuarienſis *uſque in ſeptennium exulavit, & tandem glorioſo martyrio coronatus eſt.*

32. After which he going to *Rome* remained during this Kings and his Son *Richard*'s time, only according to their pleaſures, the Clergy lying under the penalty of this Law, if they did attempt farther then the Princes liking: of which we have a very pregnant example in the caſe of *Geffrey* Arch-biſhop of *York*, K. *Richard*'s Brother, who accuſed to *Cœleſtinus* III. that he did not only *x* refuſe Appeals to *Rome*, but impriſoned thoſe who made them; upon it the Pope *y* commits the cauſe to be heard by the Biſhop of *Lincoln* and others, who thereupon *z* transfer themſelves to *York*, where hearing the Teſtimonies of thoſe appeared before them, aſſigned him a time to make his defence to the Pope. But the Arch-biſhop being then well with his Brother, pretended he could not preſent himſelf in *Rome* *a* for the Kings prohibition, and the indiſpoſition of the air. Not long after the King and he fell ſo at odds, *b quod præcepit illum diſſaiſiri de Archiepiſcopatu ſuo*, &c. *Cœleſtinus* upon this takes an opportunity to declare a ſuſpenſion to be notified through all the Churches of his Dioceſs, injoyning, what the King had before, the Lay as well as the Clergy, *c ne ipſi Archiepiſcopo vel officialibus ejus in temporalibus reſpondere præſumant, donec de ipſo Archiepiſcopo aliud duxerimus ſtatuendum.* The offence with his Brother ſtill remaining, the Biſhop expecting now no help at home, goes upon this to *Rome*, makes his peace with the Pope, and returns: but the King *d* committed the care even of the Spirituals of his Archbiſhoprick to others, without permitting him or his Agents to meddle with ought, till about two years after he *e* reconciled himſelf to the Crown; after which he gave *Innocentius*

*x Ep.* Cœleſt. *apud* Hoved. *Ann.* 1195. *fol.* 426, b. 26.
*y Eadem Ep.*
*z Idem f.* 427 a. 26. *lin.* 38.
*a* Hoved. *An.* 1195, *fol.* 427. a. 48.
*b Ibid. f.* 428. a. 42.
*c* Hoved. *An.* 1196. *fol.* 434, a. 23.
*d Ibid. fol.* 435, b. 52.
*e Ibid. fol.* 442 b. 19.

*tius* III. occaſion to write, *f Non excuſare te potes ut debes, quod illud privilegium ignoraris, per quod omnibus injuſte gravatis facultas patet ad ſedem Apoſtolicam appellandi, cum & tu ipſe aliquando ad noſtram audientiam appellaris*; and a little after, *Nec auctoritatem noſtram attendis, nec factam tibi gratiam recognoſcis, nec appellationibus defers quæ interponuntur ad ſedem Apoſtolicam*, &c. And about the ſame time *g Robert* Abbot of *Thorney*, depoſed by *Hubert* the Arch-biſhop, was laid in priſon a year and half without any regard had of the Appeal by him made to the Pope: and this to have been the practice during King *Richards* time, the continued quarrels of Popes for not admitting men to appeal unto them doth fully aſſure us.

f Hoved. *Ann.* 1201. *fol.* 455. a. 21.

g Hoved. *Ann.* 1195. *f.* 430. b. 37.

33. But *Innocentius* III, having prevailed againſt King *John*, and the Clergy great inſtruments in obtaining *Magna Charta* from that Prince, either in favour of them, or for ſome other reaſon, there was inſerted, *h Liceat unicuique de cætero exire de regno noſtro & redire ſalvò & ſecurè per terram & per aquam, ſalva fide noſtra, niſi in tempore guerræ per aliquod breve tempus*: which clauſe ſeems likewiſe to have been in that of *Henry* the III. to his Fathers *i in nullo diſſimilis*: after which it is ſcare imaginable how every petty cauſe was by *Appeals* removed to *Rome*, and the Arch-biſhop forced to appear before any had the leaſt auctority from thence.

h *Mag. Charta apud* Mat. Par. *pag.* 258, 53. *Lond.* 1640.

i Mat. Paris *Ann.* 1224. *pag.* 323, 28.

The Popes themſelves wiſe men ſaw the inconvenience, that theſe carriages muſt end either in rendring the Arch-biſhop contemptible, by taking all power out of his hands, or the Realm reſume its ancient right, and prohibit the carrying ought beyond Seas, or admitting any Legat into the Kingdom; thought of the way of granting ſeveral priviledges to the Archbiſhoprick, which firſt began about the time of *Innocentius* the II. whom others followed.

34. *Gregory* the Ninth therefore moved by one of

them (which ſeems to be St. *Edmund*) writes thus unto him: *k Ut cum appellationis remedium non ad defenſionem malignantium, ſed ad oppreſſorum ſubſidium ſit inventum,* yet the Arch-biſhop attempting ſometimes *exceſſus corrigere ſubditorum, quidam eorum, ut correctionem effugiant, appellationes fruſtratorias interponunt, quibus ſi cite pro reverentia ſedis Apoſtolicæ humiliter deferatur, illi ex impunitate deteriores effecti pejora præſumunt, & alii eorum exemplo redduntur ad vitia proniores; unde humiliter poſtulaſtis,* &c. —— *ut providere ſuper hæc ſolita diligentia deberemus: ut igitur auctoritati tuæ in rectis diſpoſitionibus nihil tali pretextu deeſſe contingat, fraternitati tuæ præſentium auctoritate concedimus, ut, non obſtante † frivolæ appellationis objectu, libere valeas in corrigendis ſubditorum tuorum exceſſibus officii tui debitum exercere.*

k Bulla Gregor. ix. *in antiquo MS. dat.* Interamnæ 27 *Junii*, 1236

† Frivola Appellatio *quæ dicitur, vide* Lindwood c. 2. *verbo* frivole, *de Appellationibus.* ſcil. *quæ vana & inanis — vel quando nulla cauſa eſt expreſſa, vel non legitima dato quod ſit vera, vel licet ſit legitima, eſt tamen manifeſte falſa. Et vide ibid. verbo* Pallietur.

35. ‖ And for that his Agents here in their citations of the Arch-biſhop did not uſe that reſpect unto him which was fit, but as *Gervaſius Dorobernenſis* obſerves of one of them, *l Legati privilegium pluſquam deceret extenderet in immenſum, ſuumque Archiepiſcopum & Epiſcopos Angliæ ut ſibi occurrerent quolibet evocaret*; the ſame Pope did therefore declare, that, *cum nimis indecens videatur, ut per literas Apoſtolicas tacito * tuo nomine dignitatis inter privatas perſonas ſtare judicio compellaris, nos fraternitatis tuæ precibus inclinati, auctoritate tibi præſentium indulgemus, ut per literas à ſede Apoſtolicâ impetratas quæ de dignitate tua non fecerint mentionem reſpondere minime teneris,* &c. Dat. *Viterbii* 4. Non. *Martii*, Pontif. nono.

‖ *At* Viterbo 4. *Mar.* 1235. l *Col.* 1665, 23.

* *Sic MS. ſed legendum* tuæ.

39. † And becauſe the Arch-biſhop had on many ſlight occaſions been drawn beyond Seas, to the great impoveriſhing the Epiſcopacy, the ſame Pope two months after writes, *Ea propter, venerabilis in Chriſto frater, tuis ſupplicationibus inclinati, fraternitati tuæ auctoritate præſentium indulgemus, ut per literas Apoſtolicas extra*

† *At* Peruſium 6 *Maii* 1235.

Angliam

Angliam *invitus non valeas convenire, niſi de indulgentia hujuſmodi fecerint ea literæ mentionem, aut per te aliquod factum fuerit per quod ſit indulgentia huic derogatum.* Dat. *Peruſii* 4. Non. *Maii*, Pontificat. nono.

Innocentius IV. *ut nullus ſine ſpeciali Apoſtolicæ ſedis licentia, præter Legatos ipſius ab ejus latere deſtinatos, in perſonam tuam præſumat excommunicationis ſententiam promulgare.* Lugduni 13. Kalend. *Octob.* Pontif. 4. *k* At Lions the 19 *September.*

37. It would be tedious to repeat all the Bulls found in the ſaid old MS. and other Books ſince 1130. (for before it ſeems there was none in this kind) to conſerve ſome power in the Arch-biſhoprick, yet ſo as it might ever depend on *Rome*; and how much the Papacy gained by theſe, every man ſees.

I. The right of the Arch-biſhoprick was, *none by appeal might remove any Eccleſiaſtick cauſe from his judicatory:* the Pope grants, *he ſhall proceed notwithſtanding a frivolous Appeal.*

II. The right was, *he was not at all under any Legat:* the grant is, *he ſhould not be tyed to anſwer, if they did not mention his dignity in their Citations.* See before n. 17

III. The right was, *he ſhould not be drawn beyond the Seas* (of which in the next:) the grant is, *he ſhould not be compell'd to go, unleſs mention were made of that Bull.*

IV. The queſtion was, *whether the Pope might excommunicate any within the Dioceſs of* Canterbury: the grant is, *None but a Legate* de latere *ſhould the Archbiſhop.* Cap. 2. n. 17.

Yet certainly Popes did what they well could, retaining to themſelves that vaſt power they then pretended, to conſerve in the Archbiſhoprick ſome auctority.

38. But the frequent citing him and others out of the Realm, and the carrying their cauſes to *Rome*, did not at all ſatisfie the Subject; whereupon the body of the Kingdom, *m* in their querulous letter deviſed and ſent by them to *Innocentius* IV. 1245. (or rather to the

*m* *Apud* Mat. Paris *p.* 668, 3

Councel at *Lions*) claim as an eſpecial priviledge, That no Legat ought to come here, but on the Kings deſire, *n & ne quis extra regnum trahatur in cauſam:* and at the reviſing of *Magna Charta* by *Edward* the I. the former clauſe was left out, ſince when none of the Clergy might go beyond Seas but with the Kings leave, as the *o* writs in the Regiſter, and the *p* Acts of Parliament aſſure us; and what is more, if any were in the Court of *Rome*, the King called them *q* home, not permitting any to go or abide there longer then his pleaſure. Yet I do not ſay theſe times do not furniſh examples of Appeals or recourſe thither, or receiving commands from thence; I know the contrary: but it was only between thoſe, and in ſuch caſes, as the King (holding good correſpondency with the Pope) and State did either tacitly connive at, as in matters of ſmall moment, or expreſly give allowance unto: for if otherwiſe, no perſon was ſo great, but he was forced to gain his pardon for the offence. To which purpoſe the example of the * rich Biſhop of *Wincheſter* may not be unfitly remembred, who being a Cardinal of the Kings blood, was employed by *Martin* the V. as general againſt the *Bohemians*, and to that end erected the Croſs 1429. 8. *Hen.* VI. but two years after cauſed a petition to be exhibited in Parliament, *r That he the ſaid Cardinal nor none other ſhould be purſued, vexed, impleaded, or grieved by the King, his Heirs or Succeſſors, nor by any other perſon, for cauſe of any proviſion, or offence, or miſpriſion done by the ſaid Cardinal againſt any Statute of Proviſions, or per cauſe of any exemption, receipt, acceptation, admiſſion or execution of any Bulls Papal to him in any manner made:* Which was granted, and ſhews that without it he had been lyable to puniſhment for his accepting and receiving of them. And here it is not unworthy the re-

n *Note*, this is omitted in the Copy of this Letter in *Mat. Paris* which is found in other MS. Copies of the ſame, as in one my learned friend Mr. *W. Lugdale* helped me to the ſight of, the Book it ſelf belonging to Mr. *Roper* of *Lincolns* Inne, in which it is fol. 117. *b.* and ought to be in all; for in the *Gravamina Angliæ* ſent to the ſame Pope 1246. one is, *quod Anglici extra regnum in cauſis auctoritate Apoſtolica trahuntur.* Mat. Paris *pag.* 699, 10.

o Regiſt. 193, b. *Cook*, Inſtit. 3. *pag.* 179.

p *Parl.* at *Cambridge* 12. Ric. 2. *cap.* 15. *apud* Henricum Knighton *col.* 2734, 40. *Parl.* 10. Hen. 6. *n.* 16.

5. Ric. 2. c. 2.

q Hen. Knighton *col.* 2601, 44.

* *Henry Beaufort.*

r *Rot.*

membring

membring, that this was the firſt Cardinal *England* ever ſaw a Privy Councellor. He having ſometimes ſought that dignity in *Henry* the Fifths time, upon the news, the Arch-biſhop of *Canterbury* gave the King notice of it, in a Letter yet extant; which did ſo affect that Prince, as he was ſometimes heard to ſay,* *that he had as live ſet his crown beſide him, as ſee him wear a Cardinals hat.* But he being ſoon after taken away, and the honour conferr'd on this Prelate in *June* 1426. by *Martin* the V. † at his coming into *England*, the Lords of his Majeſties Councel cauſed him to make a Proteſtation for his comportment in the future; and the 8. of *Hen.* the VI. it was agreed by the Lords in Parliament, he ſhould be on the Kings part required to attend his Majeſties Counſels, *ſub proteſtatione tamen ſubſequente quod quotiens aliqua, materia, cauſa, vel negotia ipſum Dominum* Regem *aut* regna *ſeu* dominia ſua *ex parte una, ac ſedem Apoſtolicam ex parte altera concernentia, hujus concilii regia communicanda & tractanda fuerint, idem Cardinalis ſe ab hujuſmodi conſilio abſentet, & communicationi earundem cauſarum, materiarum, & negotiorum non inter[illegible] quovis modo*, &c. and yet his former engagement made to the Councel to be firm and inviolable. Upon which the ſaid Cardinal the 18 of *Decemb.* 8. *H.* 6. *Ann.* 1429. after his thanks to the King and Lords, and his admitting the ſaid Proteſtations *tanquam rationi conſonas*, was received for one of the Councel. But I return to that I was treating of.

* *Halle* 20. Hen. 6. The complaint made by the Duke of *Gloceſter* againſt the ſaid Cardinal, Art. 2.

† *Rot. Parl.* 8 Hen. 6. n. 17.

39. The truth of this barring Appeals is ſo conſtantly averr'd by all the ancient monuments of this Nation, as one not finding how to deny it, falls upon another way, ſ that if the right of Appeals were abrogated, it concludes not the See of *Rome* had no juriſdiction over this Church, except one ſhould be ſo ſenſleſs as to imagine the Præfect of the Pretorian Court were not ſubject to the Emperors auctority, becauſe it was not lawful

ſ *Philip Scot of Schiſm of England*, pag. 174.

ful to appeal from them, according to the Law in the
t ff. de officio Præfect. Prætor. leg. unica. v. Caſſiodor. l. 6. variar. 3.
t Digeſts. To which I anſwer, that if it be granted (which is very diſputable) this Law is to be extended to the Emperor, yet it proceeded from himſelf, who might limit his own power: but he is deſired to conſider, this canon of Appeals did not from any Pope; for the *Africans* did, and the Church of *England* doth maintain it as an inherent right of their own, to give Laws in that particular, and ever had ſtrong conteſts with the Papacy about it, which held it an honour not to be parted with; and they oppoſing him in it, muſt of neceſſity have held that ſuperintendency he exerciſed over them not to be *jure divino*, for then no man could have exempted himſelf from having recourſe unto him. In *France* there are ſeveral Courts of Parliament from which no Appeal lies, who receiving that priviledge from the King, it cannot be ſaid to be in diminution of his Royalty, becauſe that they have, he gave: but if ever any of them ſhould claim this as of their own right, denying the King to have at any time a power of intermedling with them, I ſhall leave the objecter to draw what conſequence he will from it; for my part I can no other, but that they eſteemed themſelves very little his Subjects.

40. The Reader will pardon this digreſſion, which I have the longer ſtood upon, to give him the more full ſatisfaction how Appeals were firſt brought in, and how purſued; I ſhall now, in what manner the Legat and Arch-biſhop proſecuted theirs: who being *u* both before *Lucius* the II. 1144. the Biſhop of *Wincheſter* was *x* diſmiſt his legatine commiſſion; and the Pope finding with how great difficulty the Eccleſiaſtick affairs of this Kingdom could be managed by any Legat without the Arch-biſhop of *Canterbury*, thought of a very ſubtle invention to conſerve his own auctority, and not have any croſſing with that Prelat, which was to create him and his Succeſſors *Legati nati*; by which, ſuch things

u W. Thorn col. 1804, 44.
x J. Hagulſt. col. 273, 61. Ann. 1145.

as

as he did before, and had a face of enterfering with the Papal plenitude, and were not so easie to devest the Archbishop of exercising, he might be said to do by a Legatine power: of which it was not long before the Pope made use, as is to be seen in his *y Decretals*; where *Alexander* the III. resolves he could not hear *jure metropolitico* matters Episcopal that came not unto him *per appellationem*, (that is in a legal way) but *jure Legationis* he might such as were brought unto him only *per querimoniam*: an invention *z* often practic't afterward, and highly advantagious to the Court of *Rome*, as what made Bishops but his Deputies.

y *De officio Legati cap.* 1.

z *Vide* Bochel. *Decreta Eccl. Gall. pag.* 918. *Conc. Trident. sess.* 5. *c.* 1, 2. *& multis aliis locis.*

41. The *a Antiquitates Britannicæ Eccles.* and from him *b Harpsfield*, spake as if this honour were first bestowed on *Theobald*; which it seems to me could not be, till the taking it away from *Winchester* by *Lucius* the III. after the death of *Innocentius* II. *c Diceto* sayes, *Celestinus* III. (about some ten years after *Lucius*) bestowed on *Hubert plenitudinem potestatis in officio Legationis inauditam à seculis.* I confess I do not well understand in what it did consist, that had not been formerly heard of, to whom the Pope had committed *d Vices suas in Anglia & Scotia*; but it fully proves that power derived from || *Rome* was then looked on as a thing newly crept in. But whosoever did first confer it, the matter is not great: certain it is, by it the Papal auctority was not a little in time increas'd, there being none of the Clergy almost to question ought came from *Rome*, the Arch-bishop, on whom the rest depended; himself operating but as a Delegate from thence.

a *In* Theob. *p.* 115, 47 *edit.* 1572.

b *Seculo* xii. *p.* 328, 15.

c *Ann.* 1195. *col.* 679, 7.

d Ger. Dorob. *col.* 1663, 64.

|| The Bishop of *Ely* 1191. sayes *Rich.* I. acquired him that honour. *Ger. Dorobern. col.* 1565, 46. and the King himself expostulates in *Hoveden* with the Bishop of *Hostia*, that it cost 1500 marks. *Hoved. Ann.* 1190. *col.* 380. b. 14. So

42. To which purpose it may not unfitly be observed that when the Papacy did first attempt the exempting some great Monasteries from the jurisdiction of their Ordinary, it was *e salva primatis reverentia*, or, as *Malmsbury*

that the Court of *Rome* knew how to turn this, notwithstanding all opposition, to its no small advantage. *e* Eadmer. 62, 34. Malms. *f.* 137. a. 5.

*bury* explains it, *Archiepiſcopi tantum nutum in legitimis ſpectaturus.* But however thus carefully penned not to thwart with the Arch-biſhop, being brought hither was taken away by *Lanfrank*, not permitted to be made uſe of, the Abbot finding no other way to regain it but *f multorum preces.* Yet afterward the Pope without ſcruple exempted them not only from their Dioceſan, but even ſuch as were under the Arch-biſhops noſe, with all pertaining to them, were taken out of his own juriſdiction; and he who at firſt preſerved others rights, had thoſe houſes now at an *g* eaſie rate removed from his own. A fact of infinite advantage to the Papacy, by which it had perſons of learning in all parts, who depending wholly on it, defended what was done to be by one had a power of doing it; and he who at firſt did ſolely *h agere vices Apoſtolicas in Anglia*, was *i* under no Legat, permitted no Bull from *Rome* to be made uſe of in *England*, but by his approbation, was ſo far now from taking them away from the bearers, as *k* private Clerks by deputation from thence did ſit his ſuperiors in determining differences between him, and others who by ſtrength were taken from his juriſdiction.

f Eadmer. *ibid. l n.* 37.

g *Vide* Petri Bleſenſ. *Epiſt.* 68.

h Eadmer. *pag.* 58, 44.

i Ger. Dorob. *col.* 1663, 55.

k *Vide Bull.* Johan. 22. *apud* Gulielm. Thorn, *col.* 2041, 1.

43. After which, Popes having gained an entrance, found means to reduce the grant of *Legatus natus* to no more then ſtood with their own liking, by inventing a new ſort of Legat ſtyled *Legatus à latere* (*l* by reaſon of his near dependence on the Popes perſon) who employed in matters of concernment, at his being here the power of the former ſlept: *m* which diſtinction of Legats ſeems to me to have had its birth after 1180. firſt applyed by any of our writers to *n Johannes Anagninus Cardinalis* 1189. by *Hoveden*; which ſtyle yet *o* others who then lived do not give him. Of this Legat it is that *p Henry Chichley* in a Letter, yet extant under his own hand, wrote to *Henry* the V. that *Be inſpection of Lawes*

l *De Officio Legati cap.* 9. *Gloſſ. ad verbum* Commiſſam.

m *Vide* Ger. Dorobern. *Ann.* 1188. *col.* 1532, 55. & 1533, 8.

n Hoveden. *Ann.* 1189. *f.* 377. a. 10.

o Diceto *col.* 649, 42. Ger. Dorob.

p *Habetur in vita* Henrici Chichley *ab* Arthuro Duck *edit.* 1617.

*and*

*and Chronicles was there never no Legat à latere ſent in to no lond, and ſpecially in to your rengme of Ingland, witoute great and notable cauſe. And thei whan thei came, after thei had done her legacie abiden but litul wyle, not over a yer, and ſumme a quarter or ij. monthes as the nedes requeryd: And yet ever that he was tretyd with or he cam in to the lond, whon he ſchold have exerciſe of his power and how mychе ſchold be put in execution: An aventure after hee had bee reſeyved hee whold have uſed it to largely to greet oppreſſion of your peple:* as indeed if he ſtayed long, he ſometimes gained the cenſure of being *q occultus inimicus regni*; but this was not till the Popes had brought the Archbiſhops much under, by laying a neceſſity on them of receiving the Pall from *Rome*, and at the taking of it of making profeſſion *de fidelitate & canonica obedientia*, that is, had obliged them by Oath to defend *regalia ſancti Petri*. Of which, becauſe I find the introducing (not much touched by our writers) a great means to advance this forraign power, it will not be amiſs to ſay ſomewhat; and firſt of the Pall.

q M. Paris *Ann.* 1240. *pag.* 524. 43.

44. The *Pallium* (from whence our Engliſh word *Pall*) was a garment with which the Profeſſors of Arts, as *Grammar*, *Rhetorick*, *Muſick*, might cloath themſelves (as it ſeems to me by r *Tertullian* they did); yet was held moſt proper for ſuch as profeſſed Philoſophy: And therefore when a ſ begging fellow came to a noble *Roman*, *palliatus & crinitus*, being asked what he was, the man half angry replyed he was a Philoſopher, *& mirari cur quærendum putaſſet quod videret*: to which the Gentleman returned, *Barbam & Pallium, Philoſophum nondum video.* From whence I gather, it was for the moſt peculiar to them. So t *Euſebius* ſhews on *Heraclas*, φιλόσοφον ἀναλαβὼν τρίβωνα *taking the habit of a Philoſopher*, notwithſtanding his being a Chriſtian, retained it: and *lib.* 8. *cap.* 21. at the martyrdom of *Porphyrius* a diſciple of *Pamphilus*, he deſcribes that φιλόσοφον τρίβωνα to be

r *De Pallio cap.* 6.

ſ Aul. Gellius *Noct. Attic. lib.* 9. *cap.* 2.

t Euſeb. *Hiſt. lib* 6. *cap.* 13. *Græc. k.*

a short Cloak or Pall covering the shoulders.

45. But it seems the primitive Christians in wearing of it did attribute some Sanctity to the garment; for u *grande pallii beneficium est* (saith *Tertullian*) *sub cujus recogitatu impii mores vel erubescunt*: whereupon the x Councel of *Gangra*, not an 100 years after, pronounced him *Anathema* used the *Pallium quasi per hoc habere se justitiam credens*, &c. Now from the danger of superstition of the one side, and the being especially worn by Philosophers of the other, I am apt to think it became in the end proper only to some Bishops, who might challenge it as learned Philosophers, yet not at all likely to attribute more to the Robe than reasonable; and in time, either by collation of Emperors, or otherwise, appropriated to some particular Churches, who having that mark, were after the seats of Archbishops for the most part. For though y *Alcuinus* be of opinion the Pall is nothing but a distinction between an Archbishop and his Suffragans: yet, under favour, I conceive that must be taken of the acception of the word in the time he lived; not as used in St. *Gregories* dayes, who gives z *Augustine* at the bestowing the Pall upon him the title of Archbishop no more than he doth a *Syagrius* Bishop of *Austun* in *Burgundy*; which Town, notwithstanding that gift by St. *Gregory*, was never reputed to have other than an Episcopal chair, and Suffragan to the Archbishop of *Lions* to this day. So that certainly, at first, all that had the Pall were not *eo nomine* Archbishops, to whom it became especially proper after the Emperor relinquisht it to the Popes disposing, who at first no question had a good part in the conferring of it himself.

u Tertul. *de Pallio cap.* 6.

x *Concil. Gangrense circa Ann.* 350. *can.* 12.

y *Pallium nihil aliud est nisi discretio inter Archiepiscopum & ejus suffraganeos.* Alcuinus *de Divinis Officiis cap. quid significent vestimenta.*

z Gregor. *lib.* 12. *Epist.* 15.

a Greg. *lib.* 7. *Epist.* 112.

46. The deed is yet extant by which *Valentinian* bestowed it on the Church of *Ravenna*, about the year 430. I know b some, who find not how to deny it, hold this an honourable vestment, such as Emperours themselves

b Hieron. Rubeus *Hist. Ravennæ. Italia Sacra, to.* 2. *col.* 331. *&* 332.

ſelves wore; which opinion c *Baronius* juſtly confutes, and rather thinks it forged: yet he, d citing out of e *Liberatus*, that *Anthemius* expell'd the Church of *Conſtantinople*, *Pallium quod habuit, imperatoribus reddidit, & diſceſſit*, gives no gloſs how he could return to the Emperor his Pall and depart, if he had nothing to do with it: and it is manifeſt, in *Gregory* the greats days, that Church did not only preſcribe for the uſe of the Pall, but for doing it contrary to the will and opinion of that Father. And the ſame Doctor elſewhere f ſaith, he had dealt *apud piiſſimos dominos*, the Emperors, to ſend him *Anaſtaſius*, *conceſſo uſu Pallii*: and afterward being deſired by *Brunichilda* to grant it to *Syagrius*, (of whom before) he ſhews his readineſs, g *propter quod & ſereniſſimi Domini Imperatoris prona voluntas eſt, & concedi hæc omnino deſiderat.* So that certainly, at the beginning, if Princes did not beſtow it, yet it was not done againſt their wills; which after-times did in *Europe* ſolely appropriate to the Pope: who yet gave it not againſt their liking; as † *Lucius* the 2. ſending it to the Biſhop of *Winchester*, who yet never made uſe of it, teacheth us.

c *to.5. Ann.* 432. *n.*93.
d Baron. *to.*7. *Ann.* 536. *n.*17.
e *Brevic.* Liberat. *cap.*21. *to.*2. *concil.*
f *Lib.*1. *Epiſt.* 27.
g Greg. *lib.*6. *Epiſt.*5. *Indict.*1.
† Diceto *Ann.* 1142. *col.*508.

47. But what this Pall imported, or what the receiver had of advantage by it, writers I think do not always agree. h *Iſidorus Peluſiota*, who writ about the year 430, is of opinion, the Biſhop, as a type of *Chriſt*, wears that cloak of wool, to ſhew himſelf imitator of the great ſhepherd that will bear the ſtrayed ſheep on his ſhoulders. i St. *Gregory* ſays, it ſignifies humility, juſtice, &c. I have ſhew'd before *Alcuinus* his opinion of it. But whatſoever ſignification it was at firſt thought to carry, certainly, the neceſſity of fetching it from *Rome* was not ſo urgent, as in theſe later the Papal intereſt made it eſteemed. We do not read that ever *Laurentius* or *Mellitus* received thence the Pall; yet no man doubts of their being as lawful Archbiſhops as *Auguſtine* was. k *Giraldus Cambrenſis* and *Hoveden* agree, the

h *Lib.*1. *Epiſt.*136. apud Baron. *to.*2. *Ann.*216. *n.*15. *& to.*7. *Ann* 553. *n.*7.
i *Lib.*7. *Epiſt.* 129. *Indic.*2.
k *Itin. Cambr. lib.*2. *cap.*1. Hoved. *Ann.* 1199. *fol.*453. *b.*

Bishops of St. *Davids* in *Wales* did use the Pall, till *Samson*, about the time of the *Saxons*, flying from an infection, carried it with him; yet neither of them report him to have fetch't it from *Rome*: nor after the wanting it, did the rest of the Bishops there either refuse his consecration, deny obedience to the See, or make profession to any other, before *Henry* the first induced them by force. But to come to the *Saxons*: after *Paulinus*, there are five in the Catalogue of *York* expressly *l* said to have wanted it, (amongst which *Wilfred*, that *m* ruled all the North as his Bishoprick) yet are reputed both Archbishops and Saints; and of others in that series it will not be easie to prove they ever used it. *Albertus* the 8. Bishop about 767. had it not till the seventh year *n accepti Episcopatus*: nor o *Adilbaldus* or *Ethelbaldus* the 14. *Anno* 895. till the fourth year *postquam acceperat Episcopatum*. An undoubted argument that Canon of *Pelagius*, recorded both by p *Ivo* and q *Gratian*, that no Metropolitane should defer above three moneths sending for it to *Rome*, was never received in this Church. r *Gregory* the great says, it ought not to be given, *nisi fortiter postulanti*: and the same s Father with a Councel at *Rome Anno* 595. decreed, *pro pallio omnino aliquid dare prohibeo*. So that in those times the one side perhaps did not much urge the taking of it, nor the other greatly seek after a thing brought small advantage, and was so far to be fetch't.

48. But after the Court of *Rome* began to raise to it self a revenue from other Churches, this *Pallium*, that was no other than a distinctive ornament, not to be payed for, began to be set at so immense a rate, that t *Canutus* going to *Rome* 1031. did mediate with *John* the 19. that it might be more easie to his Prelats: in which though he had a favourable answer, yet in *Hen.* the 1. his time it was so much, the Archbishop of *York* could not pay the money, without an u heavy debt. x *Mat. Paris* doth

l Thom. Stubbs *in vit. Archiepiscop. Ebor. col.* 1697, 2.
m Bed. *lib.* 5. *cap.* 20. *Vide lib.* 4. *cap.* 12.
n Sim. Dunelm. *Epist. ad Hugonem col.* 78, 49. *&* T. Stubbs, *col.* 1697, 15.
o *Ibid. col.* 79, 25. *& col.* 1698, 57.
p *Part.* 5. *can.* 136.
q *Dist.* 100. *cap.* 1.
r *Lib.* 7. *Epist.* 5.
s *Lib.* 4 *Epist.* 44. *Ind.* 13.
t Florent. Wigorn. *pag.* 395. *&* Ingulph. *fol.* 508. a. 53. Malms. *f.* 41. b. 39.
u *Graviter mutuatam*, Eadmer. *pag.* 98, 39.
x Mat. Paris *pag.* 274, 4.

doth intimate as if *Walter Gray*, tranſlated from *Worceſter* to that See 1215, had not his Pall at leſs than ten thouſand pounds; *accepto pallio* (ſaith he) *Epiſcopus memoratus rediit in Angliam, obligatus in curia Romana de decem millibus librarum eſtirlingorum*; which was about the ſilver of 30000 l. now, Coin being then after the rate of 20 d. the ounce. But after times, according to the Biſhop y of *Landaffe*, reduced it to the certainty, that each Biſhop payed 5000 duckets for it, every one of the value of 4 s. 6 d. our money: which yet I do not ſee how to make agree with the z *Antiquit. Brit. Eccleſiæ*, that ſpeaks only of 900 *aureos ducatos* payed by *Cranmer*.

y *In Catalog. Epiſc. in fine Archiepiſc. tam Cant. quam Ebor.*

z *Antiq. Britan. Lond. pag.* 382, 32. *Hannoviæ pag.* 327, 48.

49. But to omit the gain came by the garment; that certainly was a means of drawing a great obligation from all Archbiſhops to the Papacy: for about 1000. a new oath *de fidelitate & canonica obedientia* was deviſed, to be tender'd every Archbiſhop at the reception of it. For the more full underſtanding of which, we are to know, *William* the firſt, after he had ſettled the Kingdom in quiet, wholly poſſeſt of it, would not in any a kind acknowledg a farther obedience to *Rome* than his predeceſſors had, but maintained the rights of the Kingdom in every thing, againſt the liking of that Court in many particulars, barring all men for taking any for Pope, but whom he deſigned; inſomuch as after b *Gregory* the 7. 1084. till 1095. about 11 years, there was no Pope acknowledged in *England*; denying any to receive letters from thence, but acquainting him with them, and many more; of which elſewhere: all which being exerciſed by him, were never queſtioned during his time, nor while *Lanfrank* lived after him, (though he hath been ever reputed an holy man.) But *Anſelm* ſucceeding in his ſeat, great contentions aroſe between him and *William* the ſecond: The c King with the Nobility preſſing him, as the uſage of the Realm,

a *Vide* Baron. to. 11. *Ann.* 1071. *n.* 21, 25. *& inter* Lanfranci *Epiſt.* 7. *pag.* 304.

b Eadmer. *pag.* 25, 40.

*Vide* Lanfranci *Epiſt.* 59. *pag.* 329. *col.* 1. §. *Non.*

c Eadmer. *pag.* 38. *p.* 39. *per tot.*

not

not to depend on *Rome* as of neceſſity: he, on the other
d *Ibid.* p. 40, 5. 32. side, d declaring all ſuch cuſtoms to be contrary to Divinity, right, &c. choſe rather to live an exile all that Kings time, than any way ſubmit to thoſe cuſtoms, had been practis'd, never diſputed or queſtioned by any Archbiſhop here before.

50. But, that Prince being ſoon after taken away, and *Paſchalis* the 2. ſucceeding almoſt at the ſame time, (conſidering, as it ſeems, by what weak bands forraign Biſhops were tyed to the Papacy, how eaſie
e Lanfranc. *Epiſt.* 8. *pag.* 305. *col.* 1. it was for them to fall from it; that e *Gregory* the 7th was not ſatisfied even with *Lanfranks* carriage *in Epiſcopali honore poſitus*, who reſtrained his obedience to *canonum præcepta*; that *Anſelm* alone had oppoſed the whole body of the Kingdom; that every Prelat might be neither of his temper or opinions,) framed an oath,
f *col.* 663, 6. † *Nott*, where you read in the lives of the Abbots *p.* 140, 22. *regalem*, and in his Hiſt. *p.* 414, 22. *regalis*, both ſhould be *regalia*, for ſo we find it at the end of the Councel of *Vienna* to. 4. *concil. gen. Romæ* 1608. & 1612. agreeing with an old Copy of that oath I have ſeen in the Exchequer, which the Decretals *De jure jurando cap.* 4. read thus: *Papatum Romanæ Eccleſiæ & regulas Sanctorum Patrum adjutor ero*, &c. but *Ordericus* Raynal. *tom.* 13. *Ann.* 1233. *n.* 65. citing out of the records in the *Vatican* the oath St. *Edmund* Archbiſhop of *Canterbury* took, reads it rightly *regalia*. g Baron. *to.* 12. *An.* 1102. *n.* 6, 7, 8. h *De electione & electi poteſtate cap.* 4. i Eadmer *p.* 34, 33. k Eadmer *p.* 113, 43.
the effect of which you may ſee in *Diceto* f *Ann.* 1191. & in *Mat. Paris* and others, the † full which every Archbiſhop at the reception of the Pall was to render. At the tendring this, one in *Sicily* made a ſcruple of taking it, as that *Nec ab Apoſtolis poſt Dominum, nec in conciliis inveniri poſſe ſtatutum*; the like did ſome g in *Polonia*: to whom the Pope anſwers, as in cap. h *ſignificaſti*, objurgatorily, *quaſi Romana Eccleſia legem concilia ulla præfixerint*. And going on with the deſign, whereas at the aſſuming of this Pall by *Anſelm* 1095. it was no otherwiſe than thus, i *Pallium ſuper altare delatum ab Anſelmo aſſumptum eſt, atque ab omnibus pro reverentia Sancti Petri ſupplicitèr deoſculatum*, &c. at the taking of it by *Raulf* 1115. his immediate ſucceſſor, we find it with this addition, k *Sicque delatum ſuper Altare ſalvatoris pallium eſt, & à Pontifice inde ſuſceptum*, facta

prius Romano Pontifici de fidelitate & canonica obedientia profeſſione. *Deinde pro reverentia beati Petri ab omnibus deoſculatur*, &c. Which profeſſion being never met with as made by any Archbiſhop of *Cant.* before, but frequently after by ſuch as were his near ſucceſſors, as *Tho. Becket*, *Baldwin*, &c. we muſt conclude him to have been the firſt from whom it hath ever been required. I know † *Bellarmine* interprets a Biſhops returning out of ſchiſm 602. and voluntarily by oath promiſing to live in communion with the Pope, to be a ſwearing of obedience to that chair: but certain there is a difference between obeying and living in communion; (of which ſee *cap.* 7. *n.* 4.) between an oath inforced, and one voluntarily taken. After this, as ways to augment the Court, many priviledges were annexed to it; m as that none before his receiving that ornament might *convocate Councels*, *make Chriſme*, *dedicate Churches*, *ordain Clerks*, *conſecrate Biſhops*, that being n *Pontificalis officii plenitudo*, till he had it, none to be ſtiled an Archbiſhop; things added after mens holding a neceſſity of ſeeking it, did ſo much contribute to the Papal advantage, both in point of honour and profit. For it is manifeſt, *Lanfrank*, *Anſelm* and *Raulf* did dedicate o Churches, p conſecrate Biſhops and Abbots, were called q Archbiſhops, whilſt they wanted it.

51. Now the ice broken, this Oath (at firſt required only of Archbiſhops when they took the Pall) was by r *Gregory* the 9. *mutatis mutandis*, impoſed on Abbots and Biſhops. About 1235. came into *England* ſ *occulta clauſa ſub bulla*, the t like to which had not been ſeen, was profered to *John* 23. Abbot of St. *Albans* unacquainted with it, when he could not u *ab illa obligatione reſſilire*; who is therefore noted, that x *primo invitus & dolens Romanorum jugum ſubiit ſervitutis*, and that y *præ omnibus Romanorum oppreſſionibus novis & inauditis cæpit*

l Dicēto *col.* 534, 8. Ger. Dorober. *col.* 1307, 2.

† *De Rom. Pont. lib.* 3. *cap.* 11. §. *Juramentum.*

m *De Elect. & Electi. poteſt. cap.* 28. §. 2. *verbo* præterea.

n *De auctor. & uſu Pallii cap.* 3. *Vid. concil. Lateranenſe ſub Innocentio* 3. *cap.* 3.

o Eadmer. *pag.* 22, 19.

p *Ibid. pag.* 6, 46. *pag.* 23, 31. *pag.* 111, 6, 18, 32.

q *Ibid. pag.* 23, 42. *p.* 111, 32. *& paſſim apud Hiſtericos.*

r *De jurejurando cap.* 4.

ſ Mat. Paris *Vit. Abbat. pag.* 140, 31.

t Mat. Paris *Hiſt. major. pag.* 410, 39.

u *Vit. Abbat. pag.* 140, 39.

x *Ibid. pag.* 141, 49.

y *Ibid. pag.* 142, 1.

*pit moleſtari*, &c. The thing I find of greateſt exception is, the obligation injoyning them to viſit *Rome*, which being in purſuance of the 26. Chapter of the Councel of *Lateran*, held only 20 years before, is cenſured *z Damnum, gravamen, præjudicium, injuria, jactura*, as that which alter'd the nature of the Church, which had been from the foundation *libera & ingenua*, and was thus brought to ſerve the ends of the Court of *Rome*. Truly after this I cannot ſee how there can be ſaid to have been a free Papal Councel in *Europe*, when ſuch as it conſiſts of (being, for the moſt, Biſhops and Abbots) come with ſo high an obligation as an oath to defend the uſages of *Rome*, under the title of *Regalia Sancti Petri*. In purſuance of which the † Councel of *Trent* did expreſly charge all Patriarchs, Archbiſhops, Biſhops, and other, who in future ſhould meet in Provincial Synods, that *veram obedientiam ſummo* Romano *Pontifici ſpondeant, & profiteantur*. I wiſh it had expreſt what that had been.

z Mat. Par. *Vit. Abbat. pag.* 133, 23. *pag.* 141, 52, 56.

† *Seſſ.* 25. *cap.* 2.

52. To return to that I was treating of. This viſiting the *Roman* Court, however much preſt on this Monaſtery of St. *Albans*, yet was ever excuſed till 1290. *John* the 3. and 25. Abbot was forced to go thither for his confirmation: but becauſe the Book is not printed, I will give you my a Auctors own words. Johannes *de* Berkamſted, *vir religioſus & honeſtæ converſationis, Hic in craſtino conceptionis beatæ & glorioſæ virginis* Mariæ, *ſcilicet quinto idus Decembris, anno Domini MCC. nonageſimo, per viam compromiſſi de gremio Eccleſiæ concorditer electus, ad curiam Romanam primus omnium abbatum hujus Eccleſiæ, pro confirmatione electionis ſuæ obtinenda, perſonaliter acceſſit, ibique confirmatus eſt à ſummo Pontifice* Nicholao; *& à venerabili* L. Oſtienſi *Epiſcopo & Cardinali apud* urbem veterem *munus accepit benedictionis; & ſic data maxima pecunia Papæ, & Cardinalibus, & aliis de curia, quam de mercatoribus Papæ duris*

a *Vitæ Abbat. St. Albani MS. in Johanne* 3. *Abbate* 25.

*duris conditionibus ex munus recepit, ab illa inſatiabili curia evaſit, expletiſq; negotiis domum redire feſtinavit*, &c. By which we may ſee who of this houſe went on this occaſion firſt thither, and why it was ſo earneſtly urged from thence. As for the Monaſtery of St. *Auguſtins*, by reaſon of the often contentions with the Archbiſhop, the Monks there were much more prone to yield obedience to *Rome* (who maintained them for the moſt againſt him) than theſe other were: yet the firſt of them I find to have *b* took this oath was *Roger* the 2. elected Abbot 1253. For though the *c* benediction of *Robertus de Bello* 1224 were at *Rome*, where he gained the Abbacy; yet there being no mention of any oath preſented to him then, we muſt think it came in afterwards. But for the fuller underſtanding how this viſiting the *Roman* Church came in, the Reader will give me leave a little to digreſs.

*b* Wmus Thorn. *col.* 1899, 22.
*c* *Ibid. col.* 1880, 3.

53. Chriſtians in all ages have eſteemed it a point of ſingular piety and devotion, for any Ghoſtly Father or Doctor to have a care of thoſe to whom they have the relation of being a Spiritual Superior, either by planting Chriſtian Religion amongſt them, reducing them out of error, or otherwiſe ſome engagement on them. St. *Paul* ſent for the Elders of *Epheſus* to come unto him at *Miletus*, from whom they received thoſe wholeſom inſtructions we read in the *d* Acts of the Apoſtles; and according to this example there are divers exhortations in the writings and Epiſtles of the Fathers. Before the year 517. a *e* Councel held at *Tarragona* in *Spain* did ordain, that every Biſhop, *impletis duobus menſibus, ſe Metropolitani ſui repræſentet aſpectibus, ut ab illo monitis Eccleſiaſticis inſtructus, plenius quid obſervare debeat recogniſcat: quod ſi forte hoc implere neglexerit, in Synodo increpatus à fratribus corrigatur.* Agreeing to which, *f* *Juſtinian* in the year 541. did eſtabliſh by Law, that for the better obſervance of the Eccleſiaſtick

*d* *Act.* xx. 17, *to the end.*
*e* *Cap.* 5. *tom.* 1. *Concil.*
*f* *Novel.* 123. *cap.* 10.

cleſiaſtick rules, every *Archbiſhop*, *Patriarch*, and *Metropolitan*, *Sanctiſſimos Epiſcopos ſub ſe conſtitutos in eadem Provincia ſemel aut ſecundo per ſingulos annos ad ſe convocare.* And Pope *Zachary* *Ann.* 743. in a Councel at *Rome*, *Omnes Epiſcopi qui hujus Apoſtolicæ ſedis ordinationi ſubjacebunt, qui propinqui ſunt, annuè idibus menſis Maii ſanctorum Principis Apoſtolorum Petri & Pauli liminibus præſententur, omni occaſione ſepoſita,* &c. † After which *Charles* the Great did by Law ordain, *ut unuſquiſque Presbyter per ſingulos annos Epiſcopo ſuo rationem miniſterii ſui reddat, tam de fide Catholica, quam de Baptiſmo, atque de omni ordine miniſterii ſui.*

g Baron. to. 9. *Ann.* 743. *n.* 19.

† *Capit. Car. Magn. lib.* vii. *cap.* 108, 109.

54. About which time *Boniface* an Engliſhman, the Popes Legat in *Germany*, and Archbiſhop of *Mentz*, in a Councel held in *Germany* (the decrees whereof he ſent to *Cuthert* then in the ſeat of *Canterbury*) h declaring how great the care of the Metropolitan ought to be of thoſe under him, ſhews how every Presbyter ſhould once a year in Lent give an account to his Biſhop, who was to inſtruct him, and with ſuch things as he could not correct himſelf, to acquaint the Archbiſhop in a Synod; *Ut ſi Sacerdotes vel plebes à lege Dei deviaſſe viderim, & corrigere non potuerim, fideliter ſemper ſedi Apoſtolicæ & vicario Sancti Petri ad emendandum indicaverim: Sic enim, ni fallor, omnes Epiſcopi debent Metropolitano, & ipſe Romano Pontifici, ſi quid de corrigendis populis apud eos impoſſibile eſt, votum facere, & ſic alieni fient à ſanguine animarum perditarum.* *Cuthert*, according to this advice, doth appoint the proceedings of the Biſhop to be to the Archbiſhop, in the ſame words he had received it from *Boniface*; but i paſſeth no farther to the Pope: an undoubted argument, it was not then uſual in *England*. I have touched before, the Conqueror did ſuffer no other correſpondency with *Rome* than what he liked; *Paſchalis* the 2. quarrell'd with *Hen.* the *k* firſt, that *Nullus inde clamor*: to prevent which, this

h *Concil.* Spelm. *pag.* 237, 238.

i *Confer Concil.* Spelm. *p.* 238, §. ut Epiſcopi, & *p.* 251, *cap.* 25.

k Eadmer. *pag.* 113, 2.

this viſiting *Rome* was at the very firſt inſerted into the oath of an Archbiſhop, who being head of the Province, all the reſt might have the ſame dependance.

55. But becauſe this did not reach ſuch houſes and perſons as were exempt from the juriſdiction of the Ordinary, acknowledging no ſuperior but the Pope; the Councel of *Lateran* under *Innocentius* 3. 1215. l provided, ſuch as pertained immediately to his rule ſhould preſent themſelves before him for confirmation, *ſi commode poteſt fieri*; which was here miſliked. But this Councel ſpeaking not home, in that it tolerated the ſending m *perſonas idoneas, per quas diligens inquiſitio ſuper electionis proceſſu & electis poſſit haberi*, &c. to make the excuſe, (and being it ſelf (as I ſhall ſhew hereafter) not much regarded till *Gregory* the 9. nephew to *Innocentius*, inſerted it for the moſt into the Decretals, and framed, as I have ſaid, an oath too, for the ſtricter obligation unto him;) it was again urged by *Alexander* the 4. n *ut quilibet qui in Abbatem exemptum extunc eligeretur, Romanam curiam adiret confirmandus & benedicendus*: which the ſame Author ſtiles o *Statutum enorme* and *cruentiſſimum*. And whereas ſome, finding the burthen of running to *Rome*, had obtained as a priviledge from thence, p *ut non teneantur ſedem Apoſtolicam uſque ad certa tempora viſitare, contra formam præſtiti juramenti, ex quo illud evenit inconveniens, quod Apoſtolicæ ſedis dignitas varius viſitatur, in derogationem reverentiæ quæ ab omnibus debetur eidem*, &c. the ſame Pope therefore revokes all manner of ſuch conceſſions to whomſoever formerly granted. In which year, or perhaps 1258, *Simon* (elected Abbot of St. *Edmundsbury*) confirmed by *Alexander* the 4. the 22 October, is † noted to have been *primus exemptorum in Anglia ad curiam Romanam pro ſua confirmatione vocatus*.

l tom. 4. Concil. gen. Rom.

m Cap. 26. Concil. Lateran.

n Mat. Paris Ann. 1257. pag. 951, 41, 44.

o pag. 956, 7.

p Reynald. Annal. Eccleſ. to. 14. Ann. 1257. n. 50.

† Monaſticon Anglicanum pag. 296. col. 1.

56. Yet the Court of *Rome*, however thus earneſt at firſt, (either perceiving it ill reliſht abroad, and that

forcing ſudden mutations in Religion not to be of ſo good conſequence) in her proſecution was more moderate. q On *Reger* the xxiv Abbot of St. *Albons* 1263. I do not find it at all preſt; his ſucceſſor *John* the xxv. I have ſhew'd, was the firſt went thither for it. So likewiſe r *Philip* Abbot of *Weſtminſter* 1258. obtained the favour to ſtay at home, and *Richard Ware* his ſucceſſor fetcht his conſecration firſt thence. But after the Court was fully in poſſeſſion of what turned ſo much to her advantage, an excuſe was ſ hardlier admitted; and if any did obtain the favour to ſtay at home, he payed a good round ſum for it. It is remembred, *Michael* Abbot of St. *Auguſtins*, elected 1375. did give *Papæ & Cardinalibus ut poſſit benedici in Anglia* 183 l.--02 s.--06 d. and accordingly ſome other. The Papacy having by theſe ways abated the power of the Archbiſhop, found it eaſie, his lett removed, to bring the reſt of the Clergy wholly to depend upon it, by raiſing whom it liked to oppoſe that Prelat, who were bound to maintain the Papal auctority which ſupported them in what they did, and wringing the Inveſtitures (ſo far as lay in their power) out of the hands of Princes, to intereſt the Pope and his party in ſeveral particulars, under the notion of being matters Eccleſiaſtical; by which he brought the elections of Biſhops ſolely to the Convent, excluding both King and others, and became as Patron of moſt Spiritual promotions in *England*: which t form he yet laboured in the end to break too, by reducing all to his own gift. For the underſtanding of which, as not impertinent to that I treat of, it will be neceſſary to look a little higher.

q *Vitæ Abbat. MS.*

r Mat. Paris *p.* 972, 51.

ſ W. Thorn. *col.* 2185. *& ſequent. col.* 2153. 46.

t *Card.* Oſſat. *Epiſt.* 296. *Rom.* 22 *Decembr.* 1601.

57. When any place became deſtitute of a Biſhop, it is certain, in the primitive Church, the Lay as well as the Clergy did concur in nominating who were to ſucceed in the charge; that he who was to have the inſpection of all, might not be brought into it with the repug-

repugnancy of any. And this cuſtom was ſo general, as *u* St. *Cyprian* and 36 Biſhops more, meeting in Councel about the year 255. writing to certain in *Spain*, ſpake as if it did deſcend *de divina auctoritate*. It is not to be doubted but this courſe gave ſometime opportunity to ambitious and contentious ſpirits (as *x* St. *Auguſtine* calls them) of troubling the Churches peace: and therefore *y* the Councel of *Laodicea* before the year 360. did appoint the elections to Prieſthood not to be † by multitudes; and divers holy Biſhops deſiring peace might continue after them in their flock, were careful or ever they died to know the perſon was to ſucceed in their chair. *Severus* Biſhop of ‖ *Mela* in *Africa* had expreſt to the Clergy only, whom he thought fit to have been admitted after him to his Epiſcopacy. This was likely to have bred ſome ſtir, in reſpect the people were not acquainted with it; had not *z* St. *Auguſtine* by his pains and wiſdom allayed the diſpute: to avoid which, that good man nominated one *Eradius* for his ſucceſſor, whom the people with loud acclamations approved.

*u* Cypr. *Epiſt.* 68. *n.* 4. *edit. Pametii.*

*x* *Epiſt.* 110.

*y* *Cap.* 13.

† turbis. *& apud* Gratianum, *Diſt.* 63. *cap.* 6.

‖ *Milevis.*

*z* Auguſt. *Epiſt.* 110.

58. This concurrence or joyning of the Lay with the Clergy (that *qui præfuturus eſt omnibus ab omnibus eligatur*, as *a* *Leo* ſpeaks) in choice of Biſhops, I do no way queſtion to have continued in the Church till after *Charles* the Great, in whoſe Capitulars we find, *b* *Epiſcopi per electionem cleri & populi eligantur*; and to have been ſent hither by *Gregory* the Great, who in *c* his Epiſtles makes often mention of it, as we do find *d* ſteps of it in our own Hiſtorians. Yet certainly, however there might be ſome formalities of the people, the chief of elections here ever depended on the Prince; as may be gathered by that Speech of *Wolſtan* to the Confeſſors tomb, *e* that he had compell'd him to take the paſtoral ſtaff. And *Edward* the 3. wrote to *Clement*

*a* Leo *Epiſt.* 89. *cap.* 5.

*b* *Caroli Magni Capit. lib.* 1. *cap.* 84.

*c* *Lib.* 2. *Epiſt.* 26. *Ind.* 10. *Epiſt.* 22, 26. *Ind.* 11. *& alibi.*

*d* *Vide contin. mat.* Flor. Wigorn. *Ann.* 1128. *p.* 506. *Ann.* 1139. *pag.* 532. *e* Ailred *de miraculis Edwardi, col.* 406, 37.

the

the 6. f *Cathedrales* —— *Eccleſias progenitores noſtri dudum ſingulis vacationibus earundem perſonis idoneis jure ſuo regio libere conferebant, & poſtmodum, ad rogatum & ad inſtantiam dictæ ſedis, ſub certis modis & conditionibus conceſſerunt, quod electiones fierent in dictis Eccleſiis per capitula earundem,* &c. So likewiſe in the Parliament the 50. *Ed.* 3. the Commons ſhew, the King and great men were formerly in peaceable poſſeſſion of giving preferments in holy Church. But I will give the words themſelves, becauſe I will not erre in the Tranſlation. g *Le Roy & les grandes---feurent en peiſible poſſeſſion de doner les Eſveſches & les benefices de ſeint Eſgliſe, come le feſt le Roy St.* Edward, *qe dona l'Eveſche de* Worceſtre *a ſeint* Wolſton; *& puis par devotion des Roys fuſt, & par la Courte de* Rome *conferme, qe les Cathedralx Eſgliſes averoient frank election de lour Prelatz, ſolone la ley de Dieu & de ſeint Eſgliſe, ent ordeigne perpetuelment a durer,* &c. and a little h after, *Les Roys d'*Engleterre *ſoleient doner Eveſchez & autres grantz dignites trestouz, come il fait aujourdui Eſgliſes parochiels, & le Pape ne ſe medlaſt de doner nul benefice deinz le Royalme tanqez deinz brief temps paſſe,* &c.

f *Epiſt. Edwardi* 3. *apud* Walſingh. *pag.* 151, 42. *Ann.* 1343.

g *Rot. Parl.* 50. *Ed.* 3. *n.* 94.

h *Ibid. n.* 111.

59. And this to have been likewiſe the cuſtom in *France*, the complaint of the *French* Ambaſſador to *Innocentius* 4^tus aſſures us. i *Non eſt multum temporis* (ſaith he) *quod Reges Francorum conferebant omnes Epiſcopatus in camera ſua,* &c. and our writers do wholly look upon the placing *Lanfrank* in *Canterbury* as k the Kings act, though it were not *l* without the advice of *Alexander* the 2. Neither did m *Anſelm* ever make ſcruple of refuſing the Archbiſhoprick, becauſe he was not choſen by the Monks of *Canterbury*: and in that letter of them to *Paſchalis* the 2. 1114. though they write *Raulf in præſentia glorioſi Regis* Henrici *electus*

i *Additament.* Mat. Paris *MS. in Bibliotheca Cotton. fol.* 135, 2. *cui initium* Dicturus, *&c. of which hereafter.*

k *A Willielmo Lanfranco electus eſt.* Malms. *fol.* 116, b. 38. *Rex conſtituit Lanfrancum Archiepiſcopum Cant.* Florent. Wigor. *p.* 436. *Ann.* 1070. Sim. Dunelm. *col.* 202, 6.

l Eadmer. *p.* 6, 41.

m *Vide ibid. p.* 16, 48. *p.* 17, 18.

*à nobis*

*à nobis & clero & populo*; yet whosoever will note the n series of that election, cannot see it to have been other than the Kings act; insomuch as our o writers use often no other phrase than the King gave such preferments, &c. And whilst things stood thus, there was never any interposing from *Rome*, no question who was lawfully chosen: the Popes therefore did labour to draw this from the Princes medling with, as much as was possible. Some essay might be 1108. at the settling Investitures, for then *Anselm* p writ to *Paschalis*, *Rex ipse in personis eligendis nullatenus propria utitur voluntate, sed religiosorum se penitus committit consilio.* But this, as the practice proved afterwards, was no more but that he would take the advice of his Bishops, or other of the Clergy: for, as q *Diceto* well observes, our King did in such sort follow the Ecclesiastick Canons, as they had a care to conserve their own rights. The fittest way therefore for the Pope to get in was, if there should happen any dissensions amongst themselves, that he, as a moderator, a judge, or an Arbitrator, might step in.

n *Ibid. p.* 109, 40. &c.
o Hunt *lib.* 7. *fol.* 219, a. 1.
p *Apud* Eadmer. *pag.* 93, 42.
q *Ann.* 1175. *col.* 587, 21.

60. About the Conquest, an opportunity was offer'd on the contentions between the two Archbishops for primacy; in which *Canterbury* stood on r the Bulls (true or false) of former Popes, that had as a great Patriarch made honourable mention of them. When they were both 1071. *s* with *Alexander* the 2. by his advice it was referr'd to a determination in *England*; and accordingly 1072. Wm. the first with his Bishops made some settlement, which by them of *York* was ever stumbled at, pretending the King *t* out of reason of State sided with *Canterbury*. But this brake into no publick contest till 1116. *Thurstan* elected to *York*, *u* endeavoured at *Rome* to divert the making any profession of subjection to *Cant.* but failing in the attempt (that Court not liking to fall into a contest it was not probable to carry) resigned his Archbishoprick, *Spondens Regi & Archiepiscopo, se dum viveret*

r *Vide ea apud* Malmsburiensem *fol.* 118, a. 32.
s Lanfranc. *Epist.* 3. *pag.* 301.
t Stubbs *de Arch. Ebor. col.* 1706, 31.
u Eadmer. *p.* 118, 5. 18.

*viveret non reclamaturum*: yet after the *x* Clergy of *York* ſued to the Pope for his reſtitution, which produced that letter from *Paſchalis* the 2. in his behalf to *Hen.* the 1. is in *Eadmerus*; wherein he deſires, if there were any difference between the two Sees, it might be diſcuſt in his preſence. Which was not hearkned to; but *Calixtus* the 2. *y* in a Councel by him held 1119. at *Reimes* (of which before) (the Engliſh Biſhops not arrived, the Kings Agent proteſting againſt it, the Archdeacon of *Cant.* telling the Pope that *jure* he could not do it) conſecrated him Archbiſhop of *York*: upon which *Henry* prohibits him all return into his dominions. And in the enterview ſoon after at *Giſors*, though *Calixtus* earneſtly laboured the admitting him to his See, the King would by no means hearken to it. So the Pope left the buſineſs as he found it, and *Thurſtan* to prove other ways to gain the Archbiſhoprick.

x Eadmer. p. 120, 50. p. 121, 6.

y Eadmer. pag. 125.

61. Who thereupon became an actor in the peace about that time treated between *England* and *France*: in which his comportments were ſuch, that *z proniorem ad ſeſe recipiendum Regis animum inflexit*; ſo as upon the Popes letters he was afterwards reſtored, *a ea diſpoſitione, ut nullatenus extra provinciam Eboracenſem divinum officium celebraret, donec Eccleſiæ Cantuarienſi, &c. ſatisfaceret.* This I take to be the firſt matter of Epiſcopacy that ever the Pope (as having a power elſewhere of altering what had been here ſettled) did meddle with in *England*. It is true, whilſt they were raw in Chriſtianity, he did ſometimes recommend Paſtors to this Church; ſo *b Vitalian* did *Theodore*: and farther ſhewed himſelf ſollicitous of it, by giving his fatherly inſtructions to the *Engliſh* Biſhops to have a care of it; ſo did *Formoſus* or ſome other by his letters 904. upon which *Edward* the elder congregated a Synod, wherein

z Sim. Dunelm. *Ann.* 1120. *col.* 242, 25.

a Eadmer. *pag.* 136, 43.

b Beda, *lib.* 4. *cap.* 1.

*Note*, Malmsbury *fol.* 26. 2. 33. *ſays this was Ann.* 904. *but that agrees not with* Formoſus *his Popedom*: Baronius *therefore expells it to* 10. *and makes Ann.* 894. *n.* 11. *but at that time* Edward *was not King.*

five

five new Biſhops were conſtituted, by which an inundation of Paganiſme ready to break in on the Weſt for want of Paſtors was ſtopt. But it is apparent, this was done not as having dominion over them; for he ſo left the care of managing the matter to their diſcretion, as he did no way intereſs himſelf in it farther then adviſe.

62. A meeting of Engliſh Biſhops 1107. at *Canterbury*, or (as *Florentius Wigornienſis* ſtiles it) a Councel reſtored the Abbot of *Ramſey* depoſed 1102. *c juſſu Apoſtolico*, or, as *Eadmerus*, *d juxta mandatum Domini Papæ*. It is manifeſt, this command from *Rome* to be of the ſame nature thoſe I mentioned of *e Calvins*, or at the moſt no other then the interceſſion of the Patriarch of a more noble See, to an inferior, that by his means had been converted: For his reſtitution (after the reception of the Papal Letters) ſeems to have been a *f* good while defer'd; ſo that what paſt at *Rome* did not diſannul his deprivation here, till made good in *England*, as at a time when nothing thence was put in execution but by the Regal approbation; as the Pope himſelf *g* complained to the King. But after the Church of *Rome*, with the aſſiſtance of the *Engliſh* Clergy, had obtained all elections to be by the Chapters of the Cathedrals, upon every Scruple ſhe interpoſed herſelf.

c Flor. Wigorn. p. 479.
d Eadmer. pag 92. 14.
e *ſupra* n. 20.
f *Hoc per literas olim mandaverat.* Eadmer.
g Eadmer. p. 113. p. 115.

63. The greateſt part of the Convent of *London* 1136. *h* choſe *Anſelme* Abbot of St. *Edmundsbury* for their Biſhop, contrary to the Deans opinion and ſome few of the Canons, who appealed to *Rome*: where the election 1138. was diſannulled, the Biſhoprick by the Pope recommended to *Wincheſter*, his then, or rather ſoon after, Legat; which ſo remained till 1141. This is the firſt example of any Biſhop choſen, received and in poſſeſſion of a Church in this Kingdom, whoſe election was after quaſh't at *Rome*, and the ſentence obeyed here; as it is likewiſe of any Commendam on Papal command in the Church of *England*:

h Diceto col. 506, 507.

all which ſeems to have paſt with the Kings concurrence.

64. For to *i* deprive *William* elected ſomewhat after Archbiſhop of *York*, where he did not joyn, was not ſo eaſie: This man choſen 1142 by the greater part of the Chapter, after five years ſute in the Court of *Rome*, ‖ St. *Bernard* oppoſing him, had in the end his election annull'd by *Eugenius* III. in a Councel held at *Reims*; the Canons of *York* exhorted to chuſe another; ſome of which made choice of *Henry Murdack*, then as it ſeems with the Pope: who coming as Archbiſhop into *England*, was not ſuffer'd to enter on his Archbiſhoprick, and excommunicating *Hugh de Puzat*, a perſon preferr'd by *William*, was himſelf by him excommunicated, no intermiſſion of Divine Service in the City admitted; and *Henry*'s means to gain his See was by drawing the Biſhop of *Dureſme*, *Carliſle*, the King of *Scots*, and, by the Popes adviſe, this very *Hugh* by ſweetneſs to his party, and in the end by the Kings Son (whom it ſeems he promiſed to get advanced to the Crown by the power of *Rome*) making his peace with *Stephen*, who ſoon after employed him thither on that errand. And this I take to be the ſecond *Engliſh* election was ever here annull'd by Papal auctority.

65. Here I may obſerve, that at firſt, when ever the Pope made voyd an election, he did not take upon him to appoint another in the place vacant; but either ſent to the Clergy of the ſame Church to chuſe another, as thoſe to whom it appertained; ſo did *Eugenius* III. to *York* when this *k H. Murdack* was choſen, *Innocentius* III. when *l Stephen Langton*, or elſe the Biſhoprick lay vacant, as *m London* after *Anſelme* from 1139. to 1141. But elections being with much ſtruggling ſettled wholy in the Clergy, and *Innocentius* III. having * by definitive ſentence excluded the *Engliſh* Biſhops from having any part in that of the Archbiſhop of *Canterbury*, they

*i Vide* Joan. Hagulſtad. *ab Ann.* 1142. *ad Ann.* 1152.

‖ Bernard. *Epiſt.* 106, 234, 235, 237, 238.

*k* Jo. Hagulſt. *col.* 276, 8.

*l* Mar. Paris *Ann* 1207. *pag.* 222, 40.

*m* Dicero *col.* 507, 53. *&* 508, 20.

* Mat. Paris *Ann.* 1206. *f.* 214, 44.

they becoming wholy appropriated to the Chapters of Cathedrals, the Pope began to creep in, and *n ex conceſſa plenitudine Eccleſiaſticæ poteſtatis*, as he ſpeaks, without any formality of choice, to conferr not onely Biſhopricks, but other Eccleſiaſtick promotions, within precincts of other Dioceſſes, and by that means to fill the fat Benefices of the Nation. The firſt Archbiſhop of *Canterbury* promoted by this abſolute power of the Church of *Rome* ſeems to have been *Richard* 1229. *o non electo, ſed dato ad Archiepiſcopatum.*

n *Bulla Greg.* 9. *apud* Mat. Paris *An.*1229 *pag.* 355,46.

o Mat. Paris *pag.* 355,44.

66. The *p. French* Agent, in his Remonſtrance to *Innocentius* IV. attributes the beginning of theſe collations to *Innocent* III. and I have not read that either *Paſchalis* the ſecond, *Gelaſius*, *Calixtus*, or *Innocent* II. though forced to live ſometimes out of *Rome*, did ever exerciſe auctority that way. But I will give it in his own words.

p *Additament.* Mat. Paris MS. *in Bibliotheca Cotton. f.* 135. *cui initium*, Dicturus quod injunctum eſt mihi.

*Certe non multum temporis elapſum eſt, ex quo Dominus Papa* Alexander, *perſecutionis cogente incommodo, venit in* Franciam, *confugiens ad ſubſidium inclytæ recordationis Regis* Ludovici *patris Regis* Philippi; *à quo benigne ſuſceptus eſt, & ſtetit ibi diu; & forte vivunt aliqui qui viderunt eum: ipſe tamen in nullo gravavit Eccleſiam* Gallicanam, *ut nec unam ſolam præbendam aut aliud beneficium ipſe Papa dederit ibi, ſed nec aliquis prædeceſſor ſuus, nec multi etiam de ſucceſſoribus dederunt in ſua auctoritate beneficium aliquid, uſque ad tempora Domini* Innocentii III. *qui primus aſſumpſit ſibi jus iſtud in tempore ſuo: Revera dedit multas præbendas, & ſimiliter poſt ipſum Dominus* Honorius *& Dominus* Gregorius *ſimili modo fecerunt; ſed omnes prædeceſſores veſtri, ut publice dicitur, non dederunt tot beneficia ut vos ſolus dediſtis*, &c.

q Mat. Paris *Hiſt. minor. Ann.* 1252. *pag.*287 *f.*143, b. *col.*1. *MS. in Bibliotheca Regia Weſtmonaſt.*

67. In what year the Ambaſſador from *France* made this complaint, is not ſet down: But *q Mat. Paris* in his

*Historia minori* makes mention of it as done in or about 1202.

*Diebus sub eisdem, Episcopo* Lincolnienſi *computante, compertum & probatum est quod iste Papa, scilicet* Innocentius *quartus, plures redditus extortos ad suam contulit voluntatem, quam omnes ejus prædecessores; prout manifeste patet in lugubri querimonia quam reposuerunt Franci coram Papa pro suis intolerabilibus oppressionibus, quæ redacta est in scriptum Epistolæ admodum prolixæ, quæ sic incipit,* Dicturus quod injunctum est mihi, *&c. quære Epistolam,* &c. By which it appears, that great liberty the Papacy took in conferring Eccleſiaſtick preferments within the Dioceſſes of others, took its riſe from Pope *Innocent*, and, as it ſeems to me, not at the very beginning of his time; for 1199. *r Gelardus* Arch-deacon of St. *Davids* coming from *Rome, quia idem* G. Menevenſis *Eccleſiæ in curia Romana ſe dicebat electum, hoc ipſum caſſavit Archiepiſcopus, & alium ſacravit canonice electum*; though he after beſtowed on him a Church of 25 marks: and this in a caſe the Pope had ſo earneſtly eſpouſed, as he wrote to the Biſhops of *Lincoln, Dureſme,* and *Ely, ſi Archiepiſcopus* Cantuariæ *ſæpe dictum* Gilardum *conſecrare differret, ipſi Apoſtolica authoritate freti illum conſecrare non differrent:* which yet the Archbiſhop, as againſt the *Engliſh* liberty, did not doubt to oppoſe, and diſannul.

r R. Hoved. *fol* 453, b. 39. 454, b. 2. Ger. Dorobern. *col.* 1682, 27. *in vita Hubert.*

68. But thus it continued not long; for *ſ Honorius* the immediate Succeſſor to *Innocentius* III. ſhewing ſuch as ſerved the Apoſtolick See, and reſided with it, were worthy *congruis beneficiis honorari*, and were therefore poſſeſt of divers both in *England* and other parts, which they did adminiſter with ſo great care, *quod non minus beneficiantibus quam beneficiatis utiliter eſt proviſum; unde, quia nonnunquam beneficiatis hujuſmodi decedentibus, beneficia quæ obtinuerant, inconſultis hiis ad quos eorum donatio pertinebat, aliis ſucceſſive collatis,*

ſ *In antiquo MS. Bullarum Romanorum Pontificum Archiepiſc. Cant. Bulla, 6. Honor. 3.*

*collatis, perpetuo illis ad quos pertinent videbantur amitti, propter quod etiam murmurabant plurimi, & alii ſe difficiliores ad conferendum talibus beneficia exhibebant: Nos volentes ſuper hoc congruum remedium adhibere, ne cuiquam ſua liberalitas ſit dampnoſa, per quam potius meruit gratiam & favorem, ſtatuimus, ut clericis Eccleſiæ* Romanæ, *vel aliis* Ytalicis, *qui præbendas vel Eccleſias, ſeu alia Eccleſiaſtica beneficia in* Anglia *obtinent vel obtinuerint à modo decedentibus, Præbendæ vel Eccleſiæ, ſeu alia beneficia nequaquam à nobis vel alio illa vice alicui conferantur, ſed ad illos libere redeant ad quos illorum donatio dinoſcitur pertinere,* &c. *Dat.* Lateran. * *quarto Kalend.* Martii, *Pontificatus noſtri anno quinto.* * 26 Febr. 1221.

69. Yet neither this, nor the renewing of it by *Gregory* IX. with a ſpecial indulgence *t* directed *venerabilibus fratribus univerſis* Archiepiſcopis *&* Epiſcopis, *ac dilectis filiis* Abbatibus, *& aliis Eccleſiarum* Prælatis *per* Angliam *conſtitutis — ut ſi quando ad vos literæ Apoſtolicæ pro beneficiandis hujuſmodi de cætero emanarunt, ad proviſionem ipſorum inviti non teneamur, niſi de hac indulgentia plenam fecerint mentionem. Dat.* Lateran. * 15 Kalend. Maii, *Pontificatus noſtri anno quarto,* &c. could quiet the *Engliſh*, or keep them from that conſideration in *Mat. Paris* 1231. beginning, *u Tali Epiſcopo & tali capitulo, Univerſitas eorum qui magis volunt mori quam à* Romanis *confundi*, &c. Which the Popes, by wiſdom, and joyning the Regal auctority with their ſpiritual, found means to bring to nought; and purſuing the Papal intereſt without regarding what had paſt from them, gave the Kingdom occaſion 1241. to *x* obſerve that in only three years *Otho* had remained Legat here, he beſtowed more then three hundred ſpiritual promotions, *ad ſuam vel Papæ voluntatem*; the Pope having *y* contracted (as the report went) with the *Romans*, to confer to none but their Children and Allies the rich benefices here, eſpecially of Religious houſes,

*t In eodem MS Gregor. 9. Bulla 3.*

* *April* 17. *Ann.* 1230.

*u* Mat. Paris *p.* 371, 18.

*x* Mat. Paris *Ann* 1241. *p.* 549, 18, 22, *&c.*

*y Idem Ann.* 1240. *p.* 532, 43.

houſes, (as thoſe perhaps he had moſt power over) and to that effect had writ to the Biſhops of *Canterbury* and *Saliſbury*, *ut trecentis* Romanis *in primis beneficiis vacantibus providerent*. So that in the Councel at *Lions* 1245. they complain of theſe exorbitances, z and ſhew the revenues the *Italians* received in *England* not to be leſs then 60 thouſand marks; of which more a hereafter: and in the year following 1246. reiterated their griefs to *Innocentius* IV. b *quod Italicus Italico ſuccedit*. Which yet was with little ſucceſs: for the Popes having (as we have heard) firſt ſettled all elections in the Eccleſiaſticks, and after upon ſeveral occaſions, on the ſubmitting of the *Engliſh* to his deſires, beſtowed the Benefices in this and other Kingdoms on his dependents, c *John* XXII. (or, as d ſome ſeem to think, *Clement* V. his immediate predeceſſor) endeavoured the breaking of elections by Cathedrals and Convents, reſerving the free donation of all preferments to himſelf alone.

z *Apud* Mat. Paris *p.* 667, 36.

a *cap.* 4. *n.* 17.

b Mat. Paris *Ann.* 1246. *pag.* 669, 9.

c *Card.* Oſſat. *Epiſt.* 296. *dat. Rom.* 1601. *Decemb.* 22.

d *Rot. Parl.* 3. R. 2. *n* 37.

70. From whence proceeded the reiterated complaints againſt Papal Proviſions, in the Parliaments of *Edward* III. and *Richard* II. for this Kingdom never received his attempts in that kind: to which purpoſe the Hiſtory e of *John Deveniſh* is remarkable. The Abbot of St. *Auguſtines* dying 1346. the 20 *Edw.* III. the Convent by the Kings leave choſe *William Kenington*; but *Clement* VI. by Proviſion beſtowed the Abbacy on *John Deveniſh*, whom the King did not approve of, yet came thither armed with Papal auctority. The Prior and Convent upon command abſolutely denyed him entrance, *ingreſſum monaſterii in capite denegando*;

e W. Thorn 2082, 2. *& ſequent. vide* Walſingham *Ann.* 1374. *p.* 184, 1. Thorn, *Ann.* 1373. *col.* 2187, 57.

*See the Hiſtory of* Nicholaus de Spyna *reſigning the Abby of St.* Auguſtins, *and on his nominating him*, Thomas Fyndon *prefer'd to be Abbot there by* Martin IV. *who on the receipt of the Papal Bulls, acquainted* Edward I. *with what had paſt at* Rome *himſelf being in* England; *yet by command the houſe was ſeized into the Kings hand, and he at the Parliament held at* Acton Burnell *fined at* 400 *marks*, pro eo quod ſic fuerat creatus in Abbatem, licentia Domini Regis minime petita. *Thorn, Col.* 1939, 1. *&* 1934.

who

who thereupon returned to *Avignon*. The buſineſs lying two years in agitation, the King in the end, for avoiding expences and other inconveniences, *f ex abunduti conceſſit ut, ſi idem* Johannes *poſſet obtinere à ſummo Pontifice quod poſſet mutare ſtylum ſuæ creationis ſive proviſionis, ſcilicet non promoveri Abbatia prædicta ratione donationis vel proviſionis Apoſtolicæ, ſed ratione electionis capituli hujus loci, illa vice annueret, & ſuis temporalibus gaudere permitteret: ſed quidem hujuſmodi cauſa coram ipſo ſummo Pontifice propoſita, concludendo dixit, ſe malle cedere Pontificio, quam ſuum decretum taliter revocare*, &c. Which ſo afflicted the poor man, as the grief killed him on St. *John Baptiſts* Eve 1348. without ever entring the Abby; and the diſpute ſtill continuing, the Pope 1349. wrote to the King, *g Ne Rex impediret, aut impediri permitteret promotos à curia per bullas acceptare beneficia ſibi taliter incumbentia.* To which his Majeſty anſwer'd, *Quod Rex bene acceptaret proviſos clericos qui eſſent bona conditionis, & qui digni eſſent promoveri, & alios non.*

f *Vide varias lectiones ad col.* 2117,54. *quæ vero ibi debent interſeri pertinent ad Hiſt. de qua hic agitur col.* 2082.

g Henry Knighton *col.* 2601,37,49.

71. But the year following 1350. the 25. *Edw.* 3. the *h* Commons meeting in Parliament complain with great reſentment of theſe Papal grants, ſhewing the Court of *Rome* had reſerved to it ſelf both the collation of Abbeys, Priories, *&c.* as of late in general all the dignities of *England*, and Prebends in Cathedral Churches, *&c.* Upon which the Statute of Proviſors was in that Parliament enacted; which was the leader to thoſe other Statutes, 27 and 38 *Ed.* 3. *i* The 48 *Ed.* 3. 1374. the treaty between *Edw.* III. and *Gregory* XI. was concluded after two years agitation, wherein it was expreſly agreed, *quod Papa de cætero reſervationibus beneficiorum minime uteretur*, &c. Notwithſtanding which, the Commons the next Parliament prefer'd a Petition, ſhewing *k* all the Benefices of *England* would not ſuffice the Cardinals then in being, the * Pope having by the addi-

h *Rot. Parl. eſt. Furif.* 25 *Ed.* 3. *n.* 13. *See the words of the Petition, c.* 4. *n.* 15.

i Walſing. *hiſt.* 1374. *p.* 184,6. *Rot. Parl.* 1 *R.* 2. *n.* 66. Thorn, 1373. *col.* 2187,58.

k *Rot. Parl.* 50 *Ed.* 3. *n.* 110, 115.

* *Gregory* XI.

addition of xii. new ones raiſed the number to xxx. which was uſually not above xii. in all; and therefore they deſire it may be ordained and proclaimed, that neither the Pope nor Cardinals have any Procurator or Collector in *England, ſur peine de vie & de membre*, &c. Yet the inconveniences ſtill continuing, 3 *Rich.* 2. produced that *k* Statute is in the print: I ſhall not here repeat otherwiſe, then that the Commons in the Roll, ſeem to lay the beginning of theſe exceſſes no higher then *Clement* V.

*k* 3 *Ric.* 2. *c.* 3. 7 *Ric.* 2. *c.* 12.

72. By theſe arts, degrees and acceſſions, the Church of *Rome* grew by little and little to that immenſneſs of opinion and power it had in our Nation; which might in ſome meaſure (whilſt it was exerciſed by connivence only, upon the good correſpondency the Papacy held with our Kings and Church,) be tolerated, and the Kingdom at any time by good Laws redreſs the inconveniences it ſuſteined. But that which hath made the diſputes never to be ended, the parties not to be reconciled, is an affirmation that *Chriſt* commanding *Peter* to feed his ſheep, did with that give him ſo abſolute a power in the Church, (and derived the like to his ſucceſſors Biſhops of *Rome*,) as without his aſſent no particular Church or Kingdom could reform it ſelf: and for that he as a Biſhop cannot be denied to have as much power as others from *Chriſt*, and may therefore in ſome ſenſe be ſaid to be *l* Chriſts Vicar, to appropriate it only to the Pope, and draw thence a concluſion that *jure divino* he might and did command in all particulars *Vice Chriſti*. And though no other Church in the Chriſtian World doth agree with the *Roman* in this Interpretation; though Hiſtorians of unqueſtioned ſincerity have, as we have (in ſome meaſure) heard,

*l* Chriſti *Vicarii* ſacerdotes ſunt qui vice Chriſti legatione funguntur in Eccleſia. Euſebii *Papæ Epiſt.* 3. *tom.* 1. *Conc.* Electum à Fratribus Chriſti *Vicarium* ſuſcipiunt, (*ſcil. in Abbatem:*) *Hyderſium leges ab Edgaro cap.* 15. *Concil.* Spelm. *p.* 440. quis locus poterit eſſe tutus, ſi rabies ſancta ſanctorum cruentat? & *Vicarios* Chriſti, alumnos Eccleſiæ dilacerat? *Epiſt. W. Senonenſis, apud* Hoved. *Ann.* 1171. *fol.* 299, *b.* 32. *de morte Thomæ Archiepiſcopi.*

in

in their own ages deliver'd when and how theſe additions crept in, and by what oppoſitions gained; that our Princes have, with the adviſe of the Lay and Clergy, ever here moderated the exorbitances of the Papacy in ſome particular or other, and likewiſe reformed this Church; though the ſtipulations between our Kings and *Rome* have not been perpetual, but temporary, not abſolute, but conditional, as is to be ſeen in that paſt between *Alexander* III. and *Henry* II. *viz.* *m juravit quod ab* Alexandro *ſummo Pontifice, & ab Catholicis ejus ſucceſſoribus non recederet, quamdiu ipſum ſicut Regem Catholicum habuerint*; that the *Engliſh* Biſhops being excommunicated by the Pope *n* might not take an oath of obedience to his commands, *quia regni conſuetudines impugnabat*, though he did never exerciſe any authority here, but according to ſuch ſtipulations, contracts and agreements with our Princes, as the Laws permitted; and therefore when he ſent hither a Legat à Latere, † *he was tretyd with or he cam in to the lond, whom he ſchold have exerciſe of his power, and how myche ſchold be put in execution: An aventure after he had bee reſeyved, he would have uſed it to largely, to greet oppreſſion of your peple*, &c. as the Archbiſhop wrote to *Henry* V. as I have ſhewed *numb.* 53.

*m* Gen. Dorob. *col.* 1422, 18. Hoved. *f* 303, a. 1. *Ann.* 1172.

*n* J. Sarisbur. *Ep.* 279. *p.* 483.

† *Epiſt.* Hen. Chichly *in vita ejus, pag.* 79.

73. Though the Lawyers of the Kingdom do *o* conſtantly affirm, as the Law and Cuſtome of the Realm, the Kings Courts never to have carried regard to any forraign excommunication, and if any ſuch came from *Rome*, *p* not to be put in execution, but by allowance firſt had: to which effect it is remembred, the Biſhops of *London* and *Norwich* having publiſh't in their Dioceſſes the Popes excommunication of *Hugh* Earl (as it ſeems) of *Cheſter*, without the privity of *Henry* II. or his *Chief Juſticiar*, the Kings Writ iſſued out in this manner; *q* Londonienſis & Norwicenſis *Epiſcopi ſint in miſericordia Regis, & ſummoneantur per Vicecomites*

*o* *Fitz.* Excommengement, 4, 6, 10.

*p* *Vide* Hoveden. *fol.* 284, b. 23.

*q* *Ex antiquo Mi.*

r *Coram* Hoveden.

*& Bedellos, ut sint r contra Justicias Regis, ad rectum faciendum Regi & Justiciis ejus de eo quod, contra statuta de* Clarendone, *interdixerunt ex mandato Papæ terram comitis* Hugonis, *& excommunicationem quam Dominus Papa in ipsum fecerat per suas parochias divulgaverunt sine licentia regis.* This however contracted in *Hoveden*

s *pag.* 103. 43. 1165. and in s *Paris* 1164. yet the difference is such as may deserve a remembrance. It seems to me, what our

t Girolamo *Catena vita di* Pio V. *p.* 96, 97, 98, 100. *in* 8°. *Romæ* 1587 *&* Adriani *Hist. l.* 19. *p.* 1378. A.

Kings claimed, not to be altogether unlike the t *Exequatur* of *Naples*, observed to this day in that Kingdom, notwithstanding all contests from *Rome.*

u Ger. Dorob. *col.* 1422, 50. x *pag.* 6. y 2 *H.* 4. *Accion sur le case.* 25 Fitz. † 31 *Edw.* 3. *Excommengement* 6.

74. Neither did the Crown ever relinquish this right, not at the peace after *Beckets* death, when u *Henry* II. assented to quit no other then *Consuetudines quæ introductæ sunt tempore suo*; which it is manifest this was not, as appears by x *Eadmerus.* It is farther observable, that by the common Laws, (that is y the common Custome of this Realm) the † sentence of the Archbishop is vailed in *England*, and to be allowed in the Kings Courts, though controuled by the Pope: and to shew our Princes had no regard to any thing of this nature from thence, other then such a complying with a reverend Prelat as I have formerly mentioned did admit, it

z Froissard. *tom.* 1. *cap.* 47. *pag.* 58. *Gall.*

may not here be unfitly inserted what z *Froissard* writes of *Edward* III. with whom the *Flemings* joyned against the *French*; upon which, (but I shall deliver it in his own words) *Adonc le Roy de France s'en complaignit au*

‖ *Benedict.* xii. Jac. Meierus *Annal. Flandr.* Ann. 1340. *fol.* 141, a.

*Pape* ‖ Clement *sixieme, qui getta une sentence d'excommuniement si horrible, qu'il n'estoit nul prestre qui osast celebrer le divin service: De quoy les* Flamens *envoyerent grande complainte au Roy d'*Engleterre, *le quel pour les appaiser, leur manda, que la primiere fois qu'il rappaseroit la mer, il leur ammeneroit des Prestres de son pais qui leur chanteroient la Messe, voulsit le Pape ou non car il estoit bien privilegié de ce faire: & par ce moyen s'appaiserent les* Flamens, *&c.* As for the priviledge here spoken

ſpoken of, that can be no other then the obligation all Kings owe unto God, for ſeeing his word ſincerely taught them live under their protection, without the diſturbance of any.

75. In which kind ours have been ſo far from yielding obedience to the Papal attempts, as *Edward* the firſt could not be induced to ſpare the life of one brought a Bull from the Pope, might have made ſome diſturbance, but by his abjuring the Realm; as his Grandchild *Edward* III. did cauſe ſome to ſuffer death for the ſame offence. And on occaſions our Kings have prohibited all entercourſe with *Rome*; denied their Biſhops going thither ſo much as for confirmation, but the Metropolitans, if need were, ſhould by the Kings Writ be charged to confirm them; commanded their Subjects not to rely on any ſhould come from thence, affirming, *quod in regnum noſtrum nec propter negotium noſtrum nec veſtrum ullatenus intrabit ad terram noſtram deſtruendam.* Yet notwithſtanding ſo notorious a truth, back't with ſo many circumſtances, grounded upon unqueſtioned monuments of antiquity, hath not been received; but the bare affirmation, *Chriſt* by *paſce oves meas* intended *Peter*, and by conſequence the Pope, to be the general Paſtor of the world, and the meaning of thoſe words to be, that he ſhould *e regio more imperare*, hath ſo far prevailed with ſome, as to eſteem the ſtanding for the rights of the Kingdom, the Laws and Cuſtoms of the Nation, to be a departing from the Church Catholick; and to eſteem no leſs then Hereticks thoſe, who defending that which is their own from the invaſion of another; will not ſuffer themſelves to be led hoodwink't, to think the preſervation of their proper liberty is a leaving *Chriſt*, his Church, or the Catholick Faith.

a *Aſſiſe* l. 30. *placit.* 19.

b Walſingh. *Hiſt. An.* 1358. *pag.* 145, 68.

c *Vide* Hoved. *fol.* 284, b. 13. *Rot. Parl.* 16. *March.* 3 *H.* 5. *n.* 11. *See the* 9 *H.* 4. *n.* 37.

d Ger. Dorob. *col.* 1552, 51.

e Bellarm. *Recognit. p.* 21. *Edit. Ingolſtat.* 1608.

76. I dare boldly ſay, whoever will without partiality look back, ſhall find the reverence yielded from this

Church to *Rome* for more then a thousand years after *Christ*, to have been no other then the respect of love, not of duty, and Popes rather to *consulere* then *imperare*, their dictates to have been of the same nature *f* the German Princes were of old, *auctoritate suadendi magis quam jubendi potestate*, never requiring a necessity of obedience *eo nomine* that they came from *Rome*, but for that they were just and reasonable: neither did the Pope send any Agent hither to see them put in execution; but the Archbishop, according to the exigent of times, receiving his wholsome advises, caused such as he held of them did conduce to the good of the *English* Church to be observed. So *Theodore* *g* received those of Pope *Martin*, but *h* did not them concerning *Wilfred*, from *Agatho*. When *Alexander* II. had exempted the *i* Abbot of St. *Edmundsbury* from the jurisdiction of the Bishop of *Norwich*, *Lanfrank* took the Act from the Abbot: and *Gregory* VII. is so far from using commands in the cause, as he only earnestly intreats the Archbishop he would stop the Bishop of *Norwich* from molesting the said Abbot; yet himself as it seems did not restore the Bull of immunity to him during that Popes life, (but of this before.) In the year 1070. on the Kings desire in a Councel at *Windsor*, *k* *Agelricus* Bishop of the *South-Saxons* is degraded, and his Bishoprick conferr'd on *Stigandus*: *Alexander* II. not approving what had past, *l* writes to the King, this cause seemed to him *non ad plenum tractata, ideoque sicut in canonibus cautum est, in pristinum locum debere restitui judicavimus; Deinde, causam ejus, juxta censuram canonicæ traditionis diligenter retractandam & definiendam, prædicto fratri nostro Archiepiscopo Lanfranco commisimus.* It is certain (however some Writers might upon this or for other causes think his degradation to have been (*non canonice*) those times did not interpret this (though writ with so great earnestnes) for other then advise or intercession,

*f* Tacit. *de moribus Germanorum. Vide* Lanfranci *Epist.* 8. *p.* 305.

*g* Beda *lib.* 4. *cap.* 17.
*h* Malms. *fol.* 150, *&c.*
*i* *Vide* Eadm. *pag.* 62, 36. Lanfranci *Ep.* 20. *p.* 311.

*k* Fl. Wigorn. *Ann.* 1070. *p.* 435; *&* 436. Sim. Dunelm. *col.* 292.
*l* Baron. *to.* 11. *Ann.* 1071, *n.* 11

terceſſion, not as of a perſon had an abſolute power of commanding in the buſineſs; for we never read of any proceedings upon it, not *Lanfrank* at all ever to meddle in the caſe, that he ever eſteemed *m Stigand* a lawful Biſhop *Epiſt.* 27, 28. who in the year 1075. *n* being in a Councel at *London*, according to the Decrees of it, removed his Epiſcopal Chair from *Selſey* to *Chicheſter*, of which he *o* died Biſhop 1087. without being at all, for what appears, queſtioned or diſturbed after the firſt grant of it. Divers examples of the like nature occur too long to be repeated, where the King or *p* his chief Juſtice prohibit the Papal precepts from being put in execution: and it is agreed by Lawyers, that not the command, but the conſtant obedience, is it which denotes a right of commanding; and in caſes of this nature *prohibentis potior eſt conditio*, one example in the negative, when the thing is ſtood upon, being of more weight then twenty by compliance in the affirmative.

*m* Lanfranci *Epiſt.* 27, 28. *& apud* Eadmer. *pag.* 13.
*n* Malms. *de pontif. lib.* 1. *fol.* 121, b 27. *Vita* Lanfranci *cap.* 12. *pag.* 13. *& col.* 1.
*o* Fl. Wigorn. *Ann.* 1087. *pag.* 449.
*p Vide* Ger. Dorobern. *Ann.* 1087. *col.* 1503, 38.

77. It is probable, neither the King nor the Biſhops would introduce any new matter of great concernment into this Church, without the privity of ſo great a Doctor, Patriarch of a See, from which their Anceſtors had received the firſt principles of *Chriſtian* Religion; but it is manifeſt, what paſt, (if he were acquainted with it) was by their own auctority, not his. When *Offa* intended the erecting of *Litchfield* into an Archbiſhoprick, he did it by a Councel at *Calcuith*: *Lambertus* (as what he approved not) producing *q crebra ſedis Apoſtolicæ & vetera & nova edicta* againſt it, yet the thing proceeded. *Lucius* II. ‖ went ſo far in his intentions to raiſe *Wincheſter* to an Archiepiſcopal Chair, as he ſent the Pall to the Biſhop: yet it being not approved here (as the event ſhews) that Town never yet had the honour. *Henry* the firſt having in his *r* Laws appointed how a *Biſhop*, *Presbyter*, *Monk*, *Deacon*, &c. ſhould ſuffer, committing homicide, concludes, *Si quis ordinatum occidat*,

*q* Malms. *de regibus lib.* 1. *fol.* 15. b. 34.
‖ Diceto *Ann.* 1142. Mat. Weſt.
*r Leg. Hen.* 1. *cap.* 73. *pag.* 204, 294.

*dat, vel proximum ſuum, exeat de patria ſua, &* Romam *adeat, & Papam, & conſilium ejus faciat; de adulterio, vel fornicatione, vel* † Nunnæ *concubitu ſimiliter pœniteat.* Where it is obſervable, the King ordains the Penance, permits the delinquents peregrination to *Rome*, to receive from the Pope (as from a great Doctor of the Church) ſpiritual counſel, which elſe he was not admitted to ſeek; for *t peregrina judicia modis omnibus ſubmovemus*; and again *u ibi ſemper cauſa agatur, ubi crimen admittitur.*

† *Legendum* Nunnæ *cum MS. London.* Seld. *noſtro, non* nimio, *ut MS. Schachar.*

t *Leg. Hen.* 1. *c.* 31. *p.* 187, 29 u *Ibid. c.* 1. *p.* 5. *pag.* 178, 28.

78. *William* the firſt (who began his expedition againſt *Harald* by the counſel of *Alexander* II. and received a *x* banner from him) minding the depoſition of the Archbiſhop of *Canterbury*, procured the Pope to ſend certain Eccleſiaſticks hither to joyn in the action, as likewiſe ſoon after for determining the queſtion of precedency between *Canterbury* and *York*; upon which there grew an opinion, *y Archiepiſcopum Cantuarienſem à nullo hominum, niſi à ſolo Papa, judicari poſſe vel damnari, nec ab aliquo cogi pro quavis calumnia cuiquam, eo excepto, contra ſuum velle reſpondere.* This no doubt was promoted by the Archbiſhops, as what exempted them from all home juriſdiction, the Biſhops in general did after think in ſome ſort to introduce; and thereupon put in this Petition in Parliament *z* 18 *Edw.* 3. *que pleiſe à* Roy, *en maintenance del eſtat de ſeint Egliſe, graunter & ordeiner en ceſt Parlement, que nul Erceveſque ou Eveſque ſoit deformez, arreynez, ne empeſchez devaunt ſes Juſtices, en cauſe criminele, par quecunque voye, de ſi come ſur tiele cauſe nulle alme ne les poet juger, ſi noun le Pape ſeulement.* But to this the anſwer is no other then, *Il eſt avis, que en cauſe de crime, nul Erceveſque ou Eveſque ſoit empeſche devant les Juſtices, ſi le Roy ne le commande eſpecialment tant que autre remedie ſoit ordeinez*: which he did likewiſe confirm by Charter there regiſtred, and as *a Walſingham* hath truly recorded.

x Ingulph. *fol.* 522, *a.* 6.

y Eadmer. *p.* 29, 23.

z *Rot. Parl.* 18 *Ed.* 3. *n.* 23. 24 *pet.* 1. *du Clergie.*

a Walſing. *Hiſt. An.* 1344. *p.* 155, 1.

79. This

79. This opinion, though *b* new to the English, questionless encouraged *Anselme* to oppose the King in many particulars, and Popes to go farther; as to claim Princes should not confer Investitures, nor define matters of Episcopacy, *&c.* then to bestow preferments within this Kingdom, at first by consent, and with the limitation no *Italian* to succeed another, then to reserve to themselves the collation of all Benefices; of which before. To conclude this; whosoever will without prejudice weigh the Reformation of *England* by *Henry* VIII. *Edward* VI. and more especially Queen *Elizabeth* in the point of Supremacy, must grant these Princes did not assume to themselves any thing, but such particulars as the Court of *Rome* had in a long series of time incroached in on the Crown and *English* Church. If at any time our Ancestors styled the Pope *Princeps Episcoporum*, it was in no other sense then they did St. *Peter*, *Princeps Apostolorum*; by which what principality they intended him, we cannot better understand then by the Saxon, who renders it *c* Ealsop Ꝺapa Apostola, the Elder of the Apostles. If they called him *successor* or *Vicarius Petri*, they were not alone appropriated to him, for *d Petrus Blesensis* and others give the Bishop of *York* the same titles; and the Bishop of *Bath*, who had a Church dedicated to St. *Peter*, he bids remember *quia Petri Vicarius estis*. So did they likewise in some sense call Kings *e* Christs Vicars, as well as Bishops. If at any time they gave the Pope the title of *f* head of the Church, it was, as being the first Bishop, he was held to be, as St. *Bernard* tells us, *g in beneficam causam*, as they *h* termed *Oxford the fountain and mother of our Christian Faith*. I cannot therefore but wish a * late wri-

*b Protinus intellexerunt quod prius non animadverterunt.* Eadm. *p.* 29, 21.

c Beda *Latin-Saxon edit.* 1644. *lib.* 2. *cap.* 6. *p.* 123. *lib.* 4. *cap.* 18. *p.* 302. *& alibi.*

d *Epist.* 113, 148. *Vide* Stubs *de Archiepiscopi Ebor. in Aldredo col.* 1703, 37. 1704, 13. *vide supr. c.* 2. *n.* 72.

e *Leg. Edwardi Confessoris cap.* 17. Seldeni *Notæ ad* Eadmer. *p.* 155, 12, *&c.*

f *Rot. Parl. at Glocest. n.* 78. *in nonnullis libris impressis cap.* 6, *&* 7. g Bernard. *de consideratione lib.* 3. *cap.* 3. h *Rot. Parl.* 1 *Hen.* 6. *n.* 43. * Philip Scot *his treatise of Schisme, p.* 165.

ter,

ter, that ſayes *England had a known ſubjection to* Rome *acknowledged even by our Laws, ever from the converſion of our Country under St.* Gregory, had expreſſed in what particulars that ſubjection did conſiſt, what thoſe Laws are, and where to be found. The truth is, as there is no doubt our Anceſtors in former times would not have joyned with the Synod of *Gap*, in cauſing ſo * diſputable ambiguous a queſtion as that the Pope is *Antichriſt* to have been taught as the faith of the *Engliſh* Church; ſo there is no queſtion, but it hath been ever the *Tenet* of it, *Pontificem Romanum majorem aliquam juriſdictionem non habere ſibi à Deo collatam in Sacrâ Scripturâ in hoc regno* Angliæ, *quam alium quemvis externum Epiſcopum*: which our † Hiſtorians do mention as what proceeded from the conſtitutions of the Church and aſſent of Emperors, not as of a thing in it ſelf *juris divini*: inſomuch as,

80. That propoſition, *i* when it was propounded 1534. in *Henry* the Eight's time in convocation, all the Biſhops without exception, (and of others only one doubted, and four placed all Eccleſiaſtick power in the Pope,) both the Univerſities, and moſt of the Monaſteries and Collegiat Churches of *England*, approved & avowed as the undoubted opinion of the Church of this Nation in all ages. Neither can I ſee how it can be otherwiſe: for if the Church of *Canterbury k* were *omnium noſtrum mater communis ſub ſponſi ſui Ieſu Chriſti diſpoſitione*, if it were *Mater omnium* Anglicanarum *Eccleſiarum, & ſuo poſt Deum proprio lætatur paſtore*; that is, if the Archbiſhop had no mediate ſpiritual ſuperior but *Chriſt* & *God*; if the power the Pope exerciſed over him within this Realm were *l voluntate & beneficio*, gained, as I have ſhewed, by little & little, voluntarily ſubmitted unto; it could be no other then *jure humano*: and then it muſt be granted, the Church of *England* could not hold any neceſſity of being in ſubjection to the See or Church

* I will not undertake to maintain that the Pope is Antichriſt, profeſſing my weakneſs and ignorance of thoſe prophetical Scriptures to be ſo great, that I dare not be confident in my interpretations of them. *Baxter his Chriſtian concords Explication, p.* 69.

† Diceto, *Ann.* 607, & 608. *col.* 437, 23.

i *Antiquit. Britan. Eccleſ. p.* 384, 37. *edit. London*, 1573.

k Ger. Dorob. *col.* 1663, 24. *col.* 1615, 60. 63.

l *Epiſt.* Radulph. *Archiepiſc. Calixto 2. col.* 1736, 1.

Church of *Rome jure divino*; as it is manifest they did not, in that they *m* sometimes acknowledged no Pope, *n* otherwhiles shewed an intent of departing from his union, and the Bishops as well as Lay Lords advised *Anselm, o Urbani obedientiam abjicere, subjectionis jugum excutere*, &c. Neither could the Church of *England* be any way possible guilty of Schism, adhering to their Ghostly Superior next and immediate under *Christ Jesus*.

m Eadmer. *pag.* 25, 40.
n Mat. Paris *Anno* 1168. *pag.* 107, 45. *pag.* 114, 24. *Vide Epist. Gilberti Londonensis Ep. apud* Hoved. *fol.* 288, 34, 38. *Anno* 1166.
o Eadmer. *p.* 28, 23.

As for the temporal profits the Court of *Rome* received hence, though the denying them can be no just cause of such a spiritual imputation, especially on private men; yet certainly who will examin their beginning, as he shall find it to have been by the bounty or permission of our Princes, so upon search he will perceive the Kingdom went no farther then the Common Law, the precedent of former times, and such an exigency did force them to: of which therefore I shall adde a word or two.

## CHAP. IV.

# Of the Payments to the Papacy from England.

1. THE vast sums the Court of *Rome* did of late years upon several occasions export out of this Kingdom, mentioned in the [a] Statute of the 25 *Hen.* 8. are spoken of by several of our Writers: and though some [b] have in general expressed how much the Nation suffer'd in that kind; yet none, that I know, in one tract did ever shew by what degrees the Papacy gained so great a revenue, as the Commons in *Edward* the third's dayes had cause to complain, it did turn [c] *à plus grand destruction du Royaume que toute la guerre nostre Seigneur le Roy.* I have thought therefore that it will not be amiss to set down, how the Pope came to have so great an influence over the treasure of the Clergy in this Land, by seeking out how and when the greatest of the paiments made to him began, what interruptions or oppositions were met with, either at the beginning or in the continuance of them.

2. The first payment, that I have read of, which gave the Pope an entrance as it were into it, was that bounty of our Princes known to this day by the name of *Peter-pence*: and this as it was given for an [d] Almes by our Kings, so was it no otherwise received by the Court of *Rome*; [e] *Eleemosyna beati* Petri, *prout audivimus, ita perperam doloseque collecta est, ut neque mediam ejus partem hactenus Ecclesia Romana susceperit*, saith *Paschalis* II. So that no question [f] *Polidore Virgil* very inconsiderately terms it *vectigal*, and others, who by that gift contend the Kingdom became [g] *tributarium feudatarium Sancto* Petro *ejusque successoribus*: for though the word *tributum* may perhaps be met with in elder [h] Writers, yet

[a] 25 *H.* 8. *c.* 21.
[b] *Apud* Mat. Paris *Ep. universitat. Angl. Anno* 1245. *p.* 667, 38.
[c] *Rot. Parl. octav. Purif.* 25 *Ed.* 3. *n.* 13. *of which hereafter n.* 15.
[d] *Vide Epist.* W. 1. *apud* Baron. *to.* 11. *Ann.* 1079. *& inter* Lanfranci *Epist.* 7
[e] *Epist.* Hen. 1. *apud* Eadmer. *pag.* 113, 27.
[f] *Hist. lib.* 4. *p.* 89, 40, 43.
[g] *Notæ in* Lanfranci *Epist.* 7. *p.* 347. *col.* 2. *d.*
[h] Malmsbur *fo.* 128. *b.* 25.

yet never did any understand the Pope by it to become a Superior Lord of the Lay fee, but used the word metaphorically; as we do to this day term a constant rent a kind of *tribute*, and to those who pay it, and over whom we have in some sort a command, we give the title of Subjects; not as being Princes over them, but in that particular being under us, they are for it stiled our inferiors.

3. What *Saxon* King first conferred them, whether *Ina*, as *i Ranulphus Cestrensis* sayes report carryed, or *Offa*, as *k Jorvalensis*, I will not here enquire, as not greatly material. *l Polidore Virgil* tells, some write *Ethelwolphus* continued it: with whom *Brompton* seems to concur. It is true, our Historians remember he caused *m* 300 *mancusas denariorum* (*n Malmsbury* renders it *trecentas auri marcas* (which was ten times the value of silver) as *o* another *trecentos talentos*) to be carried every year from hence to *Rome*; which could be no other then the just application of *Peter-pence*: for amongst sundry complaints long after from *p Rome*, we find the omission of no payment instanced in, but of that duty only; neither do the body of the Kingdom in their *q* Remonstrance to *Innocentius* IV. 1246. mention any other as due from hence to *Rome*.

4. This therefore thus confer'd by our Kings, was for the generality continued to the Papacy; yet (to shew as it were, that it proceeded only from the liberality of our Princes,) not without some stops. Of those in the times of *William* I. and *Henry* his Son I have *r* spoke. *Henry* II. during the dispute with *Becket* and *Alexander* III. commanded the Sheriffs through *England*, that *s Denarii beati Petri colligantur, & serventur, quousque inde Dominus Rex voluntatem suam præceperit.* During the Reign of *Edward* III. the Popes abiding at *Avignon*, many of them *French*, their partiality to that side, and the many Victories obtained by the English be-

i *Polychronicon lib.* 5. *cap.* 24. *See* Brompton *col.* 802, 23.
k *Col.* 776, 37.
l *L.* 4 *p.* 89, 44
m Fl. Wigorn. *An.* 855 *p.* 300. & S. Dunelm.
n *De Regibus lib.* 2. *cap.* 2. *fol.* 22. *a.* 27.
o Jorvalensis *col.* 802, 27.
p *This appears by the Epistl. of* Will. 1. *to* Paschalis 2. *before cited, and so to* Hen. 1.
q *Apud* Mat. Paris *p.* 698, 51
r *Cap.* 3. *n.* 11.
s *Apud* Mat. Paris *A.* 1164. *p.* 103, 45 & Hoveden. *Anno* 1165. *fol.* 284. *b.* 26.

got the proverb, *u Ore eſt le Pape devenu Franceis, & Ieſu devenu Angleis*, &c. about which time our Hiſtorians obſerve, the King gave command *x* no *Peter-pence* ſhould be gather'd or pay'd to *Rome*. And this reſtraint, it ſeems, continued all that Princes time; for *Richard* II. his Succeſſor at his beginning cauſed *John Wichliffe*, eſteemed the moſt *y* knowing man of thoſe times, to conſider the right of ſtopping them; whoſe determination in that particular yet remains, entituled *z Reſponſio Magiſtri* Johannis Wickliff *ad dubium infra ſcriptum, quæſtum ab eo per Dominum Regem* Angliæ Richardum *ſecundum & magnum Concilium, anno regni ſui primo*: then the queſtion follows, *Dubium eſt, utrum regnum* Angliæ *poſſit legitime, imminente neceſſitate ſuæ defenſionis, theſaurum Regni detinere, ne deferatur ad exteros, etiam Domino Papa ſub pœna cenſurarum & virtute obedientiæ hoc petente; & relicto viris peritis quid dici debet in iſta materia, ſecundum jus canonicum, ſecundum jus* Angliæ *vel civile ſolum reſtat ſuadere partem affirmativam dubii, ſecundum principia legis* Chriſti: then ſhews, thoſe payments being no other then Almes, the Kingdom was not obliged to continue them longer then ſtood with its own convenience, and not to its detriment or ruin; agreeing therein with that of Divines, *extra caſus neceſſitatis & ſuperfluitatis Eleemoſyna non eſt in præcepto.*

5. But in the Parliament held the ſame year, the queſtion was concluded; for there this petition being preferr'd, *a quey puiſſe eſtre declaree en ceſt preſent Parlement*, ſi la charge *de la* denir Seint Pierre, *appelle* Rome peny, *ſera leve des dites Commes, & paye al Collectur noſtre Seint Pere le Pape ou noun*; the anſwer was, *ſoit fait come devant ad eſte uſee*: By which the uſe of them being again returned, did ſo remain till *Henry* the Eights time. For though in a *b* Councel held at *London* 1408, it was treated *de cenſu & obedientia Papæ ſubtrahendis vel non ſubtrahendis*; yet that it paſt farther then words I have

u H. Knighton col. 2615. 41.
x Caxton Continuat. Polychronic. c. 2. Stow A. 1365.
y H. Knighton col. 2664, 66, & 2644, 31.
z *In faſciculo Zizaniorum MS. in Bibliotheca Antiſtitis Armachani, f. 59. b. col. 2.*

a *Rot. Parl. 1 Rich. 2. n. 84*

b Walſing. *Hiſt. Anno 1408. p. 420, 2.*

have not observed. But King *c Henry* 153½ took them so absolutely away, as though Queen *Mary* repealed that Act, and *Paulus Quartus* dealt earnestly with her *d* Agents in *Rome* for restoring the use of them; yet I cannot find they were ever gather'd, and sent thither during her time: but where some Monasteries did answer them to the Pope, and did therefore collect the taxe, that in process of time became as by custome pay'd to that house; which being after derived to the Crown, and from thence by grant to others, with as ample profits as the Religious persons did possess them, I conceive they are to this day pay'd as an appendant to the said Manors, by the name of *Smoak-money*.

c 25 *H.* 8. *c.* 21

d *Hist. Concil. Trident. l.* 5.

6. Before I pass from this, one thing is not to be omitted: that however the Pope had this as a due, and for that end his Collector did abide in *England*; yet he might not raise the ancient accustomed proportion of the *Taxe*, not in any kind alter the manner of taking it: for when *Rigandus* from the Pope endeavoured that, he was streightly prohibited by *Edward* II. The *e* Act it self is printed.

*e* Fox *Acts and Monuments in Edw.* 2.

As for the value these *Peter-pence* did amount to, I have seen in an old *MS.* belonging to the Church of *Chichester*, a Bull said to be of *f Gregory* V. that did proportion them after this manner.

*f Vide Concil.* Spelm. *p.* 313.

| Episcop. | l. | s. | d. | Episcop. | l. | s. | d. |
|---|---|---|---|---|---|---|---|
| *Cant.* | 07 | 18 | 10 | *Exoniensis* | 09 | 05 | 00 |
| *London.* | 10 | 10 | 00 | *Wigornienſis* | 10 | 05 | 00 |
| *Roffensis* | 05 | 10 | 00 | *Herefordenſ.* | 06 | 00 | 00 |
| *Norwicensis* | 21 | 00 | 00 | *Bathon.* | 12 | 00 | 00 |
| *Elienſis* | 05 | 00 | 00 | *Sarisbur.* | 17 | 00 | 00 |
| *Lincolnienſis* | 42 | 00 | 00 | *Coventrenſis* | 10 | 00 | 00 |
| *Ciceſtrenſis* | 08 | 00 | 00 | *Eborac.* | 11 | 10 | 00 |
| *Winton.* | 17 | 06 | 08 | | | | |

Dat, apud *Urbem Veterem* x. Kalend. *Maii*, Pontificatus nostri anno secundo.

But

But this could not be the Bull of *Gregory* V. who dyed about 997. before *g Ely* was erected, or Epiſcopal Chairs placed in *h Lincoln* or *Norwich*.

7. The laſt article in the oath preſcribed the Clergy from the Pope, of obedience to him, was, not any way to alienate the poſſeſſions of their houſes, *inconſulto Romano Pontifice*. Whether this clauſe were inſerted when 1115, it was firſt required of *i Raulf* the Archbiſhop of *Canterbury*, I have not been able to certifie my ſelf; and am apt to believe it was not: for though we find it in *k Mat. Paris*, when it was firſt impoſed on Abbots and Biſhops, yet that was after the Court of *Rome* had taſted the ſweetneſs of taxing other Churches; neither is it in any of thoſe conditions mentioned by *l Diceto*. But whenever it came in, it implying a right of alienating the poſſeſſions of Religious houſes and Churches, with the Papal licence, bred an opinion, that without his aſſent there could be no good ſale made of their eſtates, by any temporal or ſpiritual power whatſoever, though with their own concurrence: and the Court of *Rome* grew to maintain, *m* That being a Mother, ſhe ought to be relieved by her Children. *n Gelaſius* the ſecond in his diſtreſs 1118, is ſaid to have deſired a Normannica *Eccleſia ſubſidium orationum, & magis pecuniarum*: yet certainly the *Norman* Church did not then at all condeſcend to any; for the *French* Agent in the *o Lugubri querimonia* (of which before) mentions him amongſt divers others who, expell'd *Italy*, fled into *France* for ſuccour, yet, *non in aliquo gravaverunt Eccleſiam* Gallicanam, *nec dando beneficia, nec petendo ſubſidium pecuniæ vel armorum, ſed ſpiritualibus armis, ſcilicet lacrymis & orationibus, quæ ſunt arma miniſtrorum* Chriſti, *maluerunt eſſe contenti*, &c. So that certainly if any collection were made for *Gelaſius*, it was ſo private, publick notice was not taken of it.

8. The firſt extraordinary contribution raiſed by allowance

*g* Fl. Wigorn. *Anno* 1109. *p.* 482. *& alii.*
*h* Remigius *circum A.* 1080 *tranſtulit ſedem Epiſcopalem de Dorkecestra Lincoln.* & Herebertus *circa* 1086. *de Thetfordia, Norwich.* Malmsb. *de Pont.*
*i Cap.* 3. *n.*50.
*k Vitæ Abbat. p.* 140, 27. *Hiſt. major. pag.* 414, 26.
*l Ann.* 1191. *c.l.* 663, 6.
*m* Mat. Paris *Anno* 1226. *pag.* 328, 13.
*n* Ordericus Vitalis *pag.* 846. c.
*o* Mat. Paris *Additament. MS. ubi ſupra, cap.* 3, *n.* 66.

allowance for the Popes use in this Kingdom, I take not to have been before 1183. when *Lucius* III. at odds with the Citizens of *Rome*, not any ways able to resist their fury, sent to *Henry* II. *postulans ab eo & à clericatu Angliæ auxilium.* The thing was taken into consideration, and for the precedent, it was not thought fit any thing should be given as from the Clergy, but that they might raise a supply amongst themselves for the King, without permitting a forraign Agent to intermeddle; and his Majesty might with that relieve the Pope as he should see occasion. But take in the Historian his own words. *p Consuluit Rex Episcopos suos & clerum Angliæ de petitione summi Pontificis: cui Episcopi & Clerus consuluerunt, ut ipse secundum voluntatem suam & honorem faceret auxilium Domino Papæ, tam pro se quam illis, quia tolerabilius esset, & plus placeret eis, quod Dominus Rex, si vellet, accepisset ab eis recompensationem auxilii illius, quam si permisisset nuncios Domini Papæ in* Angliam *venire, ad capiendum de iis auxilium; quia si aliter fieret, posset verti in consuetudinem, ad detrimentum regni. Adquievit Rex consilio eorum, & fecit auxilium magnum Domino Papæ in auro & argento.* The judicious Reader may observe hence things very remarkable: as, that the King did in points concerned the Pope consult with the English Church, and followed their advise; the great care the Clergy took to avoid any sinister consequence in future, and therefore did themselves give to the Prince, as to whom it was due from them, and not to the Pope, who by custom might come to claim it: as indeed he did after step so far, as to prohibit their giving the King at all, without *q* his license, endeavouring the gaining a supremacy over them as well in Temporals as Spirituals, who hitherto had not meddled with collections of that nature.

p Hoveden. *Anno* 1183. *fol.* 354. *b.* 43.

q *De immunitate Ecclesiæ in Sexto c.* 3. v. Knighton *col.* 2489. 37.

For the *r* same *Henry*, about 17 years before, (after the example of the *French*) did cause a supply be made for

r Ger. Dorob. *Anno* 1166. *col.* 1399. 7.

for the relief of the Eaſtern Church; but I do not find it to have been either upon any motion from *Rome*, or any part of what was ſo levyed to have been converted that way.

9. But the former granted 1183. paſſing with ſo great circumſpection, perſwaded the Popes not to think fit ſodainly (as it ſeems) of attempting the like; yet that the Church of *England* might not be unaccuſtomed to payments, they ſometimes exhorted Chriſtians to the ſubvention of the *Holy Land*, and thereupon did diſtribute Spiritual Indulgences (which coſt them not a farthing) and procured Princes to impoſe on their Subjects for that end: ſo did *Clement* III. or rather *Gregory* VIII. about 1187. ſtir up *Henry* II. and *Philip Auguſtus*, and *Innocentius* III. King *John*: and, as a general Superintendent over the Clergy, did then intromit himſelf and his Agents in the raiſing of it, and ſo did convert ſome good proportion to his own uſe; inſomuch as *Johannes Ferentinus*, ſent hither 1206. from the ſame *Innocentius* III. carried hence a good quantity; upon which King *John* writ unto the Pope 1207. *quod uberiores ſibi fructus proveniant de regno Anglia, quam de omnibus regionibus citra Alpes conſtitutis*, &c. Yet truly, to raiſe any conſiderable ſum of money from the whole body of the Clergy, for ſupport of the Papal deſigns, I do not find any great attempt before *Gregory* the IX. 1229. demanded a tenth of the moveables, of both Lay and Eccleſiaſticks: to which the Temporal Lords would not at all aſſent, *Nolentes Baronias vel laicas poſſeſſiones Romanæ Eccleſiæ obligare*; and the Clergy were unwillingly induced to the contribution. The Pope thus entred, meddled no more with the Lay, but of the Clergy eleven years after he demanded by his Legat a *fifth* part of their goods. Many meetings were had about it: they ſhewed the King, they held their Baronies of him, and could not without his aſſent charge

*f* Newbrigenſ. *l.* 3. *c.* 21, 22, 23, *&c.* Hoved. *An.* 1187. *f.* 363. *b. & ſequentibus.* Ger. Dorob. *col.* 1522, 11.

*s* Mat. Paris *Anno* 1201. *pag.* 206, 54. *Anno* 1202. *pag.* 208, 12.

*u* Mat. Paris *Anno* 1206. *pag.* 214. 33.

*x* Mat. Paris *pag.* 224, 25.

*y* Mat. Paris *pag.* 361, 2, 49. *pag.* 362, 9.

*z* Mat. Paris *Anno* 1240. *pag.* 526. 20.

*a* *Pag.* 534, 8, 39.

charge them; that having formerly given a tenth, this of a *fifth* might create a custome: and at a meeting in *Berkshire* exhibited sundry solid reasons (too long to be here repeated) against the contribution. But nothing would serve; the King made for it, and the Archbishop out of private ends paying it, they were in the end forced to yield such a supply, as at his departure the year following it was said, *b* there did not remain so much treasure in the Kingdom, as he had in three years extorted from it (the vessels and ornaments of Churches excepted.)

*b* Mat. Paris *Anno* 1241. *pag.* 549, 21.

10. But neither the paying it with so great reluctancy, nor the *c* Remonstrance preferr'd in the Councel of *Lions* 1245. from the body of the Kingdom, of the several exactions the Nation lay under from *Rome*, and likewise *d* to the Pope himself the year following, could any way stop the proceedings; but *Innocentius* IV. 1246 *e* invented a new way, to charge every Religious house with finding and paying a quantity of Souldiers for his service in the Wars for one year: which being required from both the *English* and *French*, produced here those prohibitions in the same Author against raising any *Tallagium* or *Auxilium*. But the French caused their Agent to use a serious expostulation in the business; which because it is not printed, I shall deliver at large as I *f* find it. *Nuncii de novo accesserunt, nova gravamina addentes supradictis: Nuper enim mandavistis Ecclesiis, ut quia persecutor vester ad partes istas venturus est, mittant vobis militiam munitam ad resistendum ei, quia non est concilium cedere venienti; super quo satis excusabiles sunt Ecclesiæ, quia non habent militiam, nec est in parte eorum mittere quod non habent, quos etiamsi haberent & mitterent, non est tutum confidere de ipsis. Nec scitur etiam de illis, utrum venturus sit, quia etiamsi veniret, præferendum esset (ut videtur) consilio humano consilium Domini, qui dicit, Si persecuti fuerint vos in unam civitatem, fugite in aliam, &c.* And in the same year he *g* attempted the

*c* *Apud* Mat. Paris *p.* 666, 51.

*d* *Apud* Mat. Paris *A.* 1246, *p.* 698, 40, 51. *&c.*

*e* *Ibid. pag.* 701, 56. *p.* 707 30. *pag.* 708.

*f* In Lugubri querimoniâ *Additament.* Mat. Paris *MS. de qua supra, c.* 3. *n* 59, 67.

*g* Mat. Paris *Anno* 1246. *pag.* 707, 2. ut si clericus extunc decederet intestatus, ejusdem bona in usus Domini Papæ converterentur.

making himself heir to any Clerk that should die intestate; and the year * following received from the Clergy eleven thousand marks, *exceptis exemptis & tribus clericis*, as an addition to six thousand he had received the † year before.

* Mat. Paris p. 730, 16.

† *Ibid. Anno* 1246. p. 715, 16.

11. I shall not here take upon me to repeat all the times and wayes by which the subject had his purse thus drained, the labour would be too great, and the profit too little: it shall suffice to note, the Court of *Rome*, by much strugling, overcame in the end all difficulties, and did arrive to that height, the *h* Commons were forced in Parliament 1376. to prefer this petition: *Si tost come le* Pape *voet avoir monoie pur maintenir ses guerres de* Lombardy, *ou ailleurs pur despendere, ou pur raunson auscuns de ses amys prisoners* Fraunceys *prises par* Englois, *il voet avoir subsidie de Clergie d'*Engleterre; *& tantost celuy est grantez par les Prelats, a cause que les Evesques n'osent luy contrestere, & est leve de Clergie sans lour assent ent avoir devant: Et les Seculers Seigneurs my preignent garde, ne ne font face coment le Clergie est destruict, & la monoye de Royalme malement emporte.*

h *Rot. Parl.* 50 *Ed.* 3. *n.* 107.

12. And indeed the Kingdom had great reason thus to complain: see one of many examples that may be alledged. In the year 1343, the 17 *Ed.* 3. *Clement* the VI. sent hither to provide for two Cardinal Priests, one out of the Province of *York*, the other *Canterbury*, in spiritual livings, to the value of 1000 marks a piece, *i sur une si generale & coverte maniere, que la somme passera dix mille marques avant que le doun soit accept.* But the State would not endure this, *k* but chasing their Agents out of the Kingdom, the King sent through every County, *l Ne quis ab eo tempore & deinceps admitteretur per bullam, sine speciali licentia Regis*: And a little after, the Parliament held the 20 of *Ed.* 3. 1346. the Commons yet more plainly, *m Nous ne voulons soeffrer que payement soit fait as Cardinalx, pour lour demoere en* France

i *Rot. Parl.* 17 *Ed.* 3. *n.* 59.

k Walsing. *Hist.* p. 150, 30

l H. Knighton. *col.* 2583, 50.

m *Rot. Parl.* 20 *Ed.* 3. *n.* 33. *n.* 35.

France *de treter*, &c. And ſoon after they repreſent this very particular of 2000 marks to be *n en antientiſſement de la terre*, and *encreſe de nos enemies*; and therefore *qu'ils ne ſoient en nul maniere ſoefferts*, &c. In both which his Majeſty gives them content.

n N. 35.

13. Neither did the Papacy, having gained the poſſeſſion (as I may term it) of taxing, impoſe theſe payments for one year only upon forreign Churches, as at firſt, but for ſix ſucceſſively one after the other. So did *o John* XXI. in the year 1277. and *p Clement* V. in the Councel of *Vienna* 1311. pretending an employment againſt the Infidels; but procuring Princes to joyn with them in the collecting, that it might be pay'd with more facility, (and therefore gave them either the *q* whole, or part of what was ſo raiſed; from whence no doubt grew that proverb ſo full of infamy, *r This the King and Pope were the Lion and Wolf*) did in the end (as we have heard) convert the treaſure to the ranſoming their friends, the maintenance of their wars, and ſuch like mundane ends. The *ſ French* affirm, the firſt of their Kings who ſhared with *Rome* in theſe levies, to have been *Charles le Bel*, about 1326. which if it were, our Kings were before them; but ſuch as ſucceeded knew there as well as elſewhere, how to apply what was thus gather'd wholly to themſelves, wiping the Popes clean out: and notwithſtanding all *t* complaints in that kind from *Rome*, *u Duarenus* obſerves the Crown of *France* to have none more certain or ſpeedy revenue, then that is thus raiſed of the Eccleſiaſticks.

o W. Thorne col. 1926. 27.
p Walſing. *Hiſt. p.* 73. 3.
q *Vide* Mar. Paris *A.* 1252. *p.* 849. 12.
r *Ibid. A.* 1255. *p.* 917. 39.
ſ *Chronicon de Regibus Francorum ad finem* Pauli Æmilii, *A.* 1326. *&* du Tillet *in Chronico.*
t *Vide Hiſt. del Conc. Trident. in* 4°. *lib.* 5. *p.* 408.
u De beneficiis *lib.* 7. *c.* 1. *in fine.*

14. But theſe exactions grew ſo burthenſome, *Martin* V. at *x* the Councel of *Conſtance* 1417. was conſtrained to eſtabliſh, *Nullatenus imponantur generaliter ſuper totum clerum, niſi ex magna & ardua cauſa, & utilitate univerſalem Eccleſiam concernente, & de conſilio & conſenſu & ſubſcriptione fratrum noſtrorum, ſanctæ Romanæ Eccleſiæ Cardinalium & Prælatorum, quorum conſilium*

x Conc. Conſt. Seſſ. 43. de Decimis & aliis oneribus: Conſ. gen. Rom. *p.* 279. *&* *p.* 297.

*ſitium commode haberi poterit; nec ſpecialiter in aliquo regno vel provincia, inconſultis prælatis ipſius regni vel provinciæ*, &c. Upon which Decree a ſupply of the *Tenth* being twice demanded, *viz.* 1515, and 1518. by *Leo* X. againſt the *Turk*, the *Engliſh* Clergy denyed them both times. Thus the Papacy by little and little gained in *England* the power of ſometimes laying that Tax on Church-men, is to this day known by the name of a *Tenth*, which became limited, as we have ſeen; and after by a Statute the 26 *Hen.* 8. transferr'd to the King to be pay'd annually unto him; as were likewiſe the *Firſt-fruits* or profits of one year, commonly called *Annats*, (for I take them to be the ſame) of all ſpiritual livings: of which a word.

y Herbert. *Hiſt. Hen.* 8. *p.* 57. *p.* 59. *& Bullæ ſive Ep. Leonis de eadem re, quas vidi manuſcr.*

z 26 *Hen.* 8. *cap.* 3.

15. The firſt raiſing of them ſeemeth to have been, that when the Court of *Rome* did confer on Clerks and Chaplains reſiding with them, benefices in the Dioceſſes of others, they who thus obtained from that Chair not only the Spiritual, of Ordination, but likewiſe the Temporal, of Profit, did at firſt, either to ſhew their gratitude, or for that the Pope would have it ſo, voluntarily give the whole, or ſome part of the firſt years revenue to the Court, by whoſe favour they received all: and the Papacy perceiving the gain did thus accrue, laboured to extend it farther; was in ſome ſort imitated by other Biſhops; and for avoiding the ſhew of Simony, cover'd what was thus took with the names of *Annates*, *Vacantiæ*, † *Minuta ſervitia Scripturæ*, and ſuch like. But as St. *Gregory* a tolerating only a liberality to be given after the reception of the *Pall*, his Succeſſors knew how to turn it to a revenue; ſo theſe, however at firſt begun, did afterwards become annually a profit. What

† Minuta ſervitia *were ſmall payments, ſuch as had any expedition in the Court of* Rome *were liable unto, as fees to certain Officers or Servants of the Pope, called therefore* familiares Domini Papæ: *as of late, ſuch as renewed Leaſes of the Archbiſhop of* Cant. *did to his Secretaries, and others of his retinue. 1389. there was payed 4 of theſe to the Pope, and one to the dependents on the Cardinals.* Thorn. *col.* 2194, 31. *the reſt have no difficulty.* a *Lib.* 4. *Ep.* 44. *Indict.* 13.

others

others did in this kind, is not neceſſary to that I treat of; but upon the practice of the Church of *Rome*, the 25 *Ed.* 3. the Commons *b* exhibit this petition to the King: *Prie ſa Commune*, &c. *de veer & regarder*, &c. *Coment le Pape ne ſoloit avant ces heures faire reſervations de nul benefice de ſeint Egliſe, ſi l' ne juſt de benefice de ſes Chapleyns, ou de ſes Clerks que morerent en la Court de* Rome; *& ore tard & de novel pur covetiſe d'avoir les primers fruicts, & les autres profitz que endependent, ad reſervee & reſerve de jour en autre à ſa collation generalement & eſpecialment, ſi bien Abbeies & Priories, come toutz les autres grantz beneficez d'*Engleterre *que ſont de Patronage eſpiritel, & generalement il ad reſervee ore tard toutes les dignites d'*Engleterre, *& Provendres en Egliſes Cathedralles, & les donne ſi bien au Aliens come as Denezeins, & iſſint ad le Pape toutz les primers fruicts des dits benefices.* By which it appears, the Papacy, that formerly took the First-fruits of only ſuch livings as men dyed poſſeſt of in the Court of *Rome*, had an intent of extending them to all were *de Patronage eſpiritel*: but whether an active King ſtopt upon this the endeavours of that See, or the Popes, wiſe men, thought it not fit to make too ſodain an irruption into the profits of other Churches, is not greatly material; *c* but 25 years after, the Commons again repreſent the Popes Collector, *Ore de novel ceſt an & ne le preſt unques devant al oeps du Pape les primiers fruitz de cheſcun benefice, dont il fait proviſion ou collation, except de graces grantez aux povres, ou il ne ſoleit prendre nulles fruictes forſque ſoulement des beneficez vacantz en la Court de* Rome.

b *Rot. Parl. Chron. Furiſ.* 25 *Ed.* 3. *n.* 1.

c *Rot. Parl.* 50 *Ed.* 3. *n.* 69

16. But in whoſe time theſe First-fruits began to be taken, there ſeems to me ſome difference amongſt Writers. *Theodoricus à Niem* (who lived in the Court of *Rome*, Secretary as ſome write to *Gregory* XI, or rather, as it ſeems to me, of *Urban* VI.) *d* ſayes, *Boniface* IX. *circa decimum annum ſui regiminis*, viz. 1399. *primos*

d *De ſchiſmate inter Urbanum 6 & cl. 2. c. 9.*

*primus fructus unius anni omnium Eccleſiarum Cathedralium & Abbatiarum vacantium ſuæ cameræ reſervavit, ita quod quicunque extunc per eum promoveri voluit, ante omnia cogebatur ſolvere primos fructus Eccleſiæ, vel monaſterii cui præfici voluit*, &c. With whom *e Platina* agrees; *Annatarum uſum primus impoſuit*, (Bonifacius ix.) *hac conditione, ut qui beneficium conſequeretur, dimidium annui proventus fiſco Apoſtolico perſolverent: ſunt tamen qui hoc inventum Johanni xxii. aſcribunt*, &c. The ſame likewiſe *f Polidore Virgil* affirms, though he ſpeak as if ſome thought them of an higher time, which under favour I do not credit; for *g Nicholaus Clemanges*, in the Treatiſe he writ concerning them, ſaith, that when ſuch reſervations fell into conſideration in the Counceel of *Conſtance* (he lived whilſt it ſate) no beginning could be aſſigned before *John* the XXII. began them, *pro certo paſſagio ultramarino, & quibuſdam aliis neceſſitatibus ſuis*. To which I may add the opinion of the wiſe and learned *h* Cardinal *d'Oſſat*: Jehan xxii. *Francois de nation, dont il me deplaiſt, fuſt le primier que outre les taxes & Annates, qu'il inventa*, &c. And *Ranulphus Ceſtrenſis*, one of that time, *i* ſaith of him, *Beneficiorum per mortem ſeu reſignationem vacantium, ſive per tranſlationem, primos fructus reſervavit, ita ut Rector inſtitutus taxationem beneficii ſui aut reſidium taxationis acceptaret: ex qua cautela innumerabiles theſauri ad manus Papæ devenerunt*, &c. and *Knighton* himſelf, k *reſervavit curiæ omnes primos fructus vacantium Eccleſiarum, ſive per mortem, ſive per reſignationem*, &c. *l* Walſingham 1316. *Summus Pontifex reſervavit cameræ ſuæ primos fructus beneficiorum omnium in* Anglia *per triennium vacantium*; which not occurring of any Pope before, I cannot aſcribe other to have begun them then he; who though, in a † Bull dated the 5. of *January*, 4. *Pontificatus*, he mention *Fructus redditus, proventus, primi anni beneficiorum*, yet by the doubts he there reſolves, ſhews

e Platina *in vita Bonif.* ix.

f *De invent. rerum lib.* 8. *c.* 2.

g *Tract. de Annatis non ſolvendis, in faſciculo rerum expetend. & fugiend f.* 189. *Et inter opera ejus p.* 82. *col.* 2

h *Epiſt.* 296. *Romæ* 22 *Decembr.* 1601.

i *Polychron. l.* 7. *c.* 42. *apud* H. Knighton *col.* 2534, 8.

k *col.* 2565, 47

l *Hiſt. Anno* 1316. *p.* 84, 85

† *De Præbendis & dignitatibus c.* 11. *extravagant. Commun.*

ſhews the practice of them then newly brought into the Church. But whereas the *m* Writers before-named agree, the *Engliſh*, of all Nations, never received in this the full extent of the Papal commands, I conceive it to ariſe from the good Laws they made againſt them: of which before, and after.

*m* Clemanges, Platina, Polidor.

17. It is hardly credible how great a maſſe of Treaſure was by theſe wayes ſent hence into *Italy*. *n* The revenues the *Italians* were poſſeſt of in *England* 1245. are accounted not leſs then 60 thouſand Marks; *o* 1252. it was thought they did amount to 70 thouſand (all which for the moſt drained thither:) and in *p* the Parliament held about an hundred years after, the Commons ſhew, what went hence to the Court of *Rome*, *tourne à plus grand deſtruction du Royalme que toute la guerre noſtre Seigneur le Roy*: yet, notwithſtanding ſo many Statutes as were made by that Prince, for moderating the exceſſes in this kind, the 50th they complain, (I ſhall give it contractedly) *q the Popes Collector here held a receipt equal to a Prince or Duke; ſent annually to* Rome *from the Clergy, for Procurations of Abbeys, Priories, Firſt-fruits*, &c. 20 *thouſand Marks, ſome years more, others leſs, and to Cardinals and other Clerks beneficed in* England *as much, beſides what was conveyed to Engliſh Clerks remaining there to ſollicite the affairs of the Nation: upon which they deſire his Majeſty, no Collector of the Pope may reſide in* England.

*n* Mat. Paris *Anno* 1245. *p.* 658, 494. 667
*o* *Ibid. pag.* 859, 48.
*p* *Rot. Parl. Oſtav. Hurif.* 25 *Ed.* 3. *n.* 13. *tent. An.* 1351.
*q* *Rot. Parl.* 50 *Ed.* 3. *n.* 105, 106.

18. But the King, as it ſeems, not greatly complying with their deſires, the *r* year following they again inſtance, *that certain Cardinals, notorious enemies, had procured a clauſe* d'enteferri *to certain benefices, within the Provinces of* Canterbury *and* York; *that the Popes Collector was as very an enemy to this State as the French themſelves; that his houſe keeping here at the Clergies coſt was no leſs then* 300 l. *by the year; that he ſent annually*

*r* *Rot. Parl.* 51 *Ed.* 3. *n.* 78, 79.

*nually from hence beyond Seas* * *at one time* 20 *thouſand marks, ſometimes* 20 *thouſand pounds; and what was worſe, eſpyed the ſecrets of the Kingdome, vacations of benefices, and ſo daily made the certainty known to the ſaid Court; did now raiſe for the Pope the Firſt-fruits of all dignities and other ſmaller promotions, cauſing by oath to pay the true value of them, ſurmounting the rate they were formerly taxed at: which now in the very beginning ought to be eruſht*, &c. *Upon which conſiderations they deſire, all Strangers, Clerks and others* (excepting Knights, Eſquires, Merchants, Artificers) *might ſodainly avoid the Kingdom; no Subjects, without the Kings expreſs licence, to be Proctors, Atturneys, Fermors to any ſuch Alyen, under the pain, after Proclamation made, of life, member, loſs of lands and goods, and to be dealt with as thieves and robbers; no money during the wars to be tranſported out of the Kingdom by exchange or otherwiſe; on the forfeiture of it.* But to this the anſwer only was, *Se tiegnent les eſtatutz & ordonances ent faites.* Whereupon the ſ next Parliament the Commons preſerr'd again three Petitions, touching I. *The Payment of* * *Firſt-fruits taken* come due à la chambre noſtre ſeint Pere, *yet not uſed in the Realm before theſe times, was contrary to former treaties with the Pope*, &c. II. *Reſervations of benefices.* III. *By that way beſtowing them on Alyens, who ſundry times employed the profits of them towards the ranſoming or arraying their friends, enemies to the King. Of all which they deſire his Majeſty to provide remedy; as alſo that the Petitions the two laſt Parliaments* (of which before) *might be conſider'd, and convenient remedy ordained.* To which the anſwer is, *Les Seigneurs du grand conſeil or deigneront due remedie ſur les matires compriſes en ceſtes trois billes procedentes.* And here I take the *grand Councel* to be the *Privy Councel*, not the Lords in or out of Parliament; called the *grand Councel* for the greatneſs of the affairs fell within their cognizance, and

* à la foitz xx. Mill. marcs; à la foitz xx. Mill. lit.

ſ *Rot. Parl. 1 Ric. 2. n. 66, 67, 68.*

* *What each Biſhop payed to the See of* Rome *at his entrance for Firſt-fruits, vide Godwin. Catal. in fine uniuſcujuſque Epiſcopatus.*

and *t* named the 5. of *Hen.* 4. to conſiſt only of ſix Biſhops, one Duke, two Earls, and other in all to the number of 22.

t *Rot. Parl.* 5 *Hen.* 4. *n.* 37. *vide* 10 *Ric.* 2 *n.* 20. 13 *Ric.* 2. *n.* 6. 7 *H.* 4. *n.* 31. 11 *H.* 4. *n* 39.

19. What order they eſtabliſht, I have not wet with; it is manifeſt not to have been ſuch as gave the ſatisfaction hoped for, by the Commons *u* renewing in effect both 3. and 5. *Rich.* 2. the ſame ſuits: and the inconveniencies ſtill continuing, *x* in the year $138\frac{6}{7}$. 10 *Rich.* 2. *William Weld* was choſen Abbot of St. *Auguſtins* (in the place of *Michael* newly dead,) who troubled with a quartan ague, the *French* and *Dutch* on the Seas, the King inhibited his going to *Rome* for confirmation, &c. He thereupon employs *William Thorn*, (from whoſe pen we have the relation) hoping to be excuſed himſelf of the journey; who || ſhewing the ſufferings of the houſe, the miſerable ſtate he muſt leave it in, that he would expoſe it *irrecuperabili caſui & ruinæ*, that the King had commanded his ſtay, was in the end told by the Pope (after all means he could uſe) † *Rex tuus præcipit quod non veniat electus ille, Ego volo quod compareat & examini ſe ſubjiciat*: and again, after yet more earneſt ſollicitation, *quia audivimus turbationem inter Regem & Barones ſuos*, (the fitteſt time to conteſt with a Prince) *& multa ſiniſtra de perſona electi, & quod cederet Romanæ Eccleſiæ in* || præjudicium, *abſque perſonali comparitione non intendimus ipſum confirmare, ne daretur poſteris in exemplum.* The cauſe hanging three years in ſuſpenſe, the Abbot in fine was forced to appear in *Rome* for his benediction, and returned with it not to his houſe till about the end of *March* 1389. the 12 *R.* 2. After which, the next *y* Parliament obtained the Statute of *Premunire*, againſt the Popes conferring any Benefice within the ſaid Kingdom from the 29 of *January* then enſuing; and no perſon *to ſend or bring any ſummons, or ſentence of excommunication againſt any for the execution of the ſame law, on the pain of being arreſted, put*

u *Rot. Parl.* 3 *Ric.* 2. *n.* 37. *& cap.* 3 *& Craft. animarum.*

5 *R.* 2. *n.* 90, 91

x W. Thorne *col.* 2184, *& ſequent.*

|| *Col* 2186, 40.

† *Col.* 2187, 62.

|| *c.* 3. *n.* 13, 14.

y 13 *R.* 2. *c.* 2. *& 3. Stat.* 2.

*in priſon, forfeiture of his lands, tenements,* &c. *and incurring the pain of life, member,* &c. The intent of which law † *Polidor Virgil* rightly interprets to have been, a confining the Papal auctority within the Ocean, and for the frequent exactions of *Rome, ut nulli mortalium deinceps liceret pro quavis cauſa agere apud Romanum Pontificem; ut quiſpiam in* Anglia *ejus autoritate impius religioniſque hoſtis publice declararetur, neve exequi tale mandatum ſi quod ab illo haberet,* &c. To which law three years after ſome other ‖ additions were made: and none of theſe were ever repealed by Queen *Mary*, who though ſhe did admit a union with the Church of *Rome*, yet in reſtoring the Popes Supremacy, the State uſed ſo ∴ great caution, as it ever ſeemed to me rather a verbal than real admiſſion of his auctority; which it ſeems her Majeſty well underſtood, in that ſhe would never permit *Peito* to appear before her in the quality of either Cardinal, Biſhop, or Legat, to all which he was preferred by *Paulus* 4. But where * ſome would excuſe theſe and ſuch like laws, as paſt by *conſent and toleration from Rome*, or at leaſt *by the importunity of the Lay*, that I have ſaid doth enough ſhew the Papal care, in ſuffering nothing, they could ſtop, might any way prejudice that See. And for the Biſhops paſſing the 16 *Ric.* 2. preſſed by the Temporalty, it is ſo much otherwiſe, as that Statute is enrolled on the deſire of the Archbiſhop of *Canterbury*, Rot. Parl. 16. Ric. 2. numero 20. in fine.

† *In Ric.* 2. *hiſt. lib.* 20. *pag.* 417, 32.

‖ 16. *Ric.* 2. *cap.* 5.

∴ 1. *& 2. P. & M. c.* 8. *ſee* Cook *Inſt.* 3. *pag* 127.

* *Catholick Divine* [*his anſwer to Sr.* Ed. Cook *cap.* 12. *n.* 37, 49. *pag.* 305, 311.

20. In the ſame Parliament, the Commons, as it ſeems, much exaſperated againſt the Popes collector, do yet farther z petition, he may have the warning of forty days given him to be gone out of the Kingdom, *ſur peine d'eſtre pris come enemy du Roy & ranceone; & qe deſore en avant nul collectour ſoit demoerant deinz le Royalme d'* Engleterre, *s'il ne ſoit lige du Roy, & qe meſme ceſtui face nul rien a contraire de l'eſtatute de Proviſors fait en ceſt preſent Parlement, ſur peine de vie & de membre,*

z *Rot. Parl.* 13. *Ric.* 2. *n.* 43.

*ſanz*

*ſanz perdon, conſiderant les meschiefs & damages qe les Collectours eſtranges ount faitz deinz le Royalme devant ces heures.* But to this the anſwer only is, *Le Roys' adviſera.*

21. After theſe petitions and laws, however they ſufficiently barr'd the Court of *Rome* from medling with this Church, and enough ſhewed the right of the Kingdom in reforming of it ſelf, and redreſſing all inconveniences came unto it from beyond Sea; yet the King having a power of diſpenſing with thoſe ſtatutes, this miſchief enſued: divers who eaſily obtained letters of proviſion to a good benefice from the Papacy, ſued to the King (who held fair correſpondency with the Popes) that they might put his bulls in execution; who delayed his conceſſions ſometimes a year or longer, after the vacation of the living, during which the Ordinary had admitted ſome able perſon into the place, who then began to be diſturbed: for prevention of which, the a ſtatutes of 7. *Hen.* 4. and 3. *Hen.* 5. were made, that no licence ſhould be available againſt any poſſeſt of a living at the day of the date thereof, and farther to make void all ſo granted. After † which the contract, too long to be here inſerted, between *Martin* the 5. and the *Engliſh* Church, for ſetling ſeveral diſputes of Eccleſiaſtick cognizance, as of *uniting benefices, conſolidations*, &c. was concluded; in which the Papacy ſeems to permit ſuch particulars to the *Engliſh* Clergy, as they would not be reſtrained in, though formerly claimed not to be exerciſed but by his auctority. Yet the 8. *Hen.* 5. *n.* 10. the Commons petition, *qe nul perſone, de quel eſtate ou condition qu'il ſoit, ne ameſne* &c. *hors du Royalme d' Engleterre----or ne argent pour marchandiſe de ſeinte Eſgliſe, ou autre grace ou priviledge d'ſeinte Eſgliſe avoir, ne pour autre cauſe queconque*, &c.

a 7 *Hen.* 4. *cap.* 8. 3 *Hen.* 5. *cap.* 4.

† Concordata inter Martinum 5. & Eccleſiam Anglicanam *in Actis publicis Archiepiſc. & in Bibliotheca* Cotton. *Manuſcr.*

22. It would be here tedious, and not greatly pertinent, to repeat all the proviſions made in this kind, for the well-governing the Clergy of this Kingdom, and preſerving of them free of deſtruction from abroad;

which yet were never ſuch, but the Pope and his Officers did export a great quantity of treaſure from them. *William Thorne* hath recorded the diſburſements to the Court of *Rome* at the election of *Michael* Abbot of Saint *Auguſtine* 1375. not to have been leſs then 428 *l.* 17 *s.* 10 *d.* beſide the expence of ſuch as were ſent, and what was paid for the loan of money to make theſe payments, *viz.* 130 *l.* 18 *s.* 2 *d.* Our Hiſtorians *b* obſerve, in the Parliament held 1532. 23 *Hen.* 8. it was computed, the Papacy had received out of *England* for only the Inveſtitures of Biſhopricks, in the fourty years laſt paſt, an hundred & ſixty thouſand pound ſterling, which is four thouſand pound by the year: an incredible ſum, conſidering the poverty of the Realm for lack of ſilver, the weight of the money then currant, and the ſtrict laws of former Princes againſt ſuch like tranſportations.

*b Antiquitat. Eccleſ. Britan. in vita Cranmeri pag* 381, 2. *edit.* 1572. Hall 24. *H.* 8. *fol.* cciii. a. Herb. *in Hen.* 8. *p.* 330.

23. Thus having ſhew'd the beginning of the Papal auctority with us, and how from the general power all Biſhops received from *Chriſt*, and the fatherly care ſuch as were inſtrumental in the converſion of a people did carry to them as their ſpiritual children, and the obedience they likewiſe yielded to their ghoſtly fathers, the Pope began by ſteps (as I may ſay) to exerciſe a dominion over the Clergy here, and not ſtopping there, upon various pretences, by ſeveral ways, and (as it appears) degrees, to become ſo far lord of their Temporals, that they might not diſpoſe of them, well, contrary to his liking, becauſe he had the ſole rule of all committed to him from *Chriſt*: the firſt point I conceive ſufficiently proved, *viz.* that what was gained thus by great induſtry, at ſundry times, by ſeveral means, could no way ſpeak his ſuperintendency over this Church *jure divino*.

The ſecond point remains, whether our Princes, by the adviſe of their Clergy, had not auctority to cauſe them reform this Church, without any new aſſumption of power, not formerly inveſted in the Crown: which

which leads me to ſhew what the Regal power *in ſacris* was here held to be, before *Henry* VIII. and *Rome* divided each from other.

## CHAP. V.

## *How far the Regal power did extend it ſelf in matters Eccleſiaſtical.*

1. BEfore I enter into the diſpute of the right the Kings of *England* did exerciſe in the regiment of this Church, I hold it not unneceſſary to ſee, in what Divines hold Eccleſiaſtick Authority doth conſiſt. *a Bellarmine*, *b Turrecremata* and others divide ſpiritual power into *Ordinis*, which they refer to the adminiſtration of the Sacraments; and *Juriſdictionis*, which they hold double, *internal*, where the Divine by perſwaſions, wholſome inſtructions, ghoſtly counſel, and the like, ſo convinces the inward conſcience, as it is wholly obedient to his dictates, ſuch as thoſe of St. *Peter* were *Acts* ii. 37. and *external*, where the Church *in foro exteriori* compels the Chriſtians obedience. Now for the firſt and ſecond of theſe, the King did not take upon him at all to meddle: for he neither aſſumed to himſelf a power of preaching, teaching, binding, or looſing *in foro animæ*, adminiſtring the holy Sacraments, conferring Orders, nor to any particular is properly annexed to them; only to ſuch things as are of the outward policy of the Church, as that God may be truly ſerved, ſuch as tranſgreſs the received lawful conſtitutions even of the Church, fitly puniſhed, by the right of his Crown, the continued practice of his Anceſtours, he could not doubt but he might deal in, cauſing all others, be they Clerks or other, that offend, to ſuffer condigne puniſhment.

a *De Romano Pontif. l. 4. c. 22. §. 1.*
b *Sum. Eccleſ. l. 1. c. 93, 96.*

2. For

2. For the better understanding how far the ecclesiastick rule of our Princes did extend, we are to know, they were never doubted to have the same within their dominions, *Constantine* had in the *Empire*; and our Bishops to have that St. *Peter* had in the Church. *Ego* Constantini, *vos* Petri *gladium habetis in manibus*, said King *Edgar* to his Clergy, in that his speech so c recommended to posterity. And therefore, as after the Christian magistrate began to have government, affairs of most concernment in the Church (as is d said) had their dependance on the Emperour, the greatest Synods called by him, and the holy men of those times did not doubt the continuing to him the title of *Pontifex maximus*, as e *Baronius* notes, *sine ulla Christianitatis labe*; and as † *Constantine* did esteem the Ecclesiasticks τῶν οἴσω τῆς ἐκκλησίας, but himself τῶν ἐκτὸς ὑπὸ Θεοῦ καθεσταμένος ἐπίσκοπος, them for things within, but himself for matters without by God appointed a Bishop: so the same King *Edgar*, f no less to be remembred by the *English* than *Charles* the Great by the *French*, was g solicitous of the Church of his Kingdom, *veluti Domini sedulus Agricola*, and *Pastorum Pastor*, was reputed and writ himself the *Vicar of Christ*, and by his h laws and Canons assured the world he did not in vain assume those titles, and yet *sine ulla Christianitatis labe*, so far as antiquity ever noted.

3. What particulars those were the Emperours did hold τὰ ἐκτὸς τῆς ἐκκλησίας, to be without the Church, belonging as I may say to their *Episcopacy*, nothing can better teach us than their commands yet remaining in the laws they publisht; as in Cod. Theodos. *de feriis, de nuptiis*, &c. *de fide catholica, de Episcopis eccles. & Clericis, de Monachis, de Hæreticis, de Apostatis, de religione, de episcopali judicio*, &c. Cod. Just. lib. 1. Tit. 1. 2, 3, 4, 5. & passim in eo: and in the Novels, Novel. 6. *Quomodo oporteat episcopos & cæteros clericos ad ordinationes perduci.* Novel. 137. *de ordinatione Episcoporum & Clericorum.*

c *Apud* Ailredum *col.* 361, 16. Beato *Petro* cujus vicem Episcopi gerunt. *Capitul. Carol. & Ludovic. lib.* 5. *cap.* 163.

d Socrat. *prolog. ad lib.* 5. *Hist.*

e *Tom.* 3. *Anno* 312. *n.* 100.

† Euseb. *de vita Constantini lib.* 4. *cap.* 24.

f Flor. Wigorn. *Anno* 974. *p.* 360.

g *Regularis concordia &c. notis* Seldeni. *ad* Eadmer. *pag.* 146, 16. & 155, 6, 15 & *Concil.* Spelm. *pag.* 437. *cap.* 7. *pag.* 438. *cap.* 8. *vide leg.* Edwardi *cap.* 17.

h *Concil.* Spelm. *à pag.* 444, *ad pag.* 476.

*rum.* The prefaces to which two laws are remarkable: the firſt ſhewing the Prieſtly office is *Divinis miniſtrare*, and the Princely, *maximam habere ſollicitudinem circa vera Dei dogmata, & circa ſacerdotum honeſtatem*, &c. the other beginning thus, *Si civibus leges, quarum poteſtatem nobis Deus pro ſua in homines benignitate credidit, firmas ab omnibus cuſtodiri ad obedientium ſecuritatem ſtudemus, quanto plus ſtudii adhibere debemus circa ſacrorum Canonum & divinarum legum cuſtodiam?* And accordingly Novel. 123. in 43 chapters he did eſtabliſh many particulars pertaining to the government of the Church and Churchmen; and Novel. 131. not only l appointed the obſervance of the four firſt general Councels, but m decrees the place or precedency of the Pope of *Rome* and Archbiſhop of *Conſtantinople* ſhould be according to their definitions above all other ſeats, and how far the Dioceſes of ſome Chairs by him newly erected ſhould extend, beſides other points in ſeveral chapters to the number of 15, treating of particulars ſolely held now of eccleſiaſtick cognizance; as did likewiſe *Charles* the Great, and *Ludovicus Pius* in their capitulars in very many places. But with theſe I have not took upon me farther here to meddle, than by naming ſome, to ſhew, they having been practis'd by Emperours, the Kings of *England*, endowed from above with the ſame auctority *in eccleſiaſticis*, might very lawfully within their dominions exerciſe the like: the queſtion therefore will be, what they did underſtand their power in the Church to be, and accordingly how far they did extend it in uſe.

l *Cap.* 1.
m *Cap.* 2, 3, 4.

*See Novel.* 146.

4. As for the firſt, nothing can ſpeak more clear than what themſelves publiſht on mature and ſad deliberation, yet remaining in their laws; in which we find the Regal office thus n deſcribed: *Rex, quia vicarius ſummi Regis eſt, ad hoc eſt conſtitutus, ut regnum terrenum, & populum Domini, & ſuper omnia, ſanctam veneretur eccleſiam ejus, & regat, & ab injuriofis defendat*: and a little

n *Leg. Edw. Confeſſ. cap.* 17. *pag.* 142.

tle after, *Debet Rex Deum timere ſuper omnia, & diligere & mandata ejus per totum regnum ſuum ſervare; debet etiam ſanctam eccleſiam regni ſui, cum omni integritate & libertate, juxta conſtitutiones patrum & prædeceſſorum ſervare, fovere, manutenere, regere, & contra inimicos defendere, ita ut Deus præ cæteris honoretur, & præ oculis ſemper habeatur*, &c.

o *Leg Canut. c.11.p.109. Jorval. c.31. col 923. vide c.25.p.106. Jorval. c.23.*

Canutus, *o Nobis omni ope atque opera enitendum erit, qua potiſſimum ratione ea exquiramus conſilia, quæ ad Reipublicæ pertinent utilitatem, pietatem confirment Chriſtianam, atque omnem funditus injuſtitiam evertant*, &c. *Forvalenſis* renders it, *quomodo poſſit —— recta Chriſtianitas propenſius erigi.*

p *Leg. Inæ in præfat. pag.1. apud* Jorval. *col.761,41.* * papla *Sax.*

Ina, *p In magna ſervorum Dei frequentia religioſe ſtudebam, tum * animorum noſtrorum ſaluti, tum communi regni noſtri conſervationi*; which *Forvalenſis* reads, *ſollicitus de ſalute animarum noſtrarum & de ſtatu regni*, ſhewing the care both of his Subjects ſouls and bodies, however after a differing way, did in ſome meaſure pertain unto him.

5. Neither did theſe expreſſions paſs only from the worſt of our Kings; but from *Ina*, *Rex maxime pius*, as *q Baronius* ſtiles him; from *Canutus*, who not only himſelf 1031. went in devotion to *Rome*, but was acknowledged *r erga eccleſias atque Dei ſervos benigniſſimus largitor*; *Edward* the Confeſſour, a canonized Saint; famous for being the beſt Kings and holieſt men: who did not only leave us in their laws the Kings part, but what they conceived likewiſe the Biſhops was, *viz.* to be *ſ Dei præcones, divini juris interpretes*, that they were *rerum divinarum commoda prædicare palam*, that for and to the people they ſhould *vigilare, excubare, proclamare*, &c. as thoſe that *t contra ſpirituales nequitias debent populo prævidere*, by letting them know, *qui Dei præceptis obedire neglexerit, hic cum ipſo Deo commune non habeat.* And this is that Sword of St. *Peter* mentioned by King

q *Tom.9. Anno 740.n.14. Sed Hunt. fol.194, 30.42.*
r Fubbert. Carnotenſis *Epiſt.97. fol. 93.a. edit. Pariſ. 1608.*
ſ *Leg. Canut. c.26 p.106. apud* Jorval. *c. 24.col.922,17*
t *Sequor in reliquis* Jorvalenſem.

*Ed-*

*Edgar*, which when the holy Biſhops of the primitive times did only put in execution, they neither found Princes backward in ſupporting their deſigns, nor people refractory to their exhortations. Thus we ſee, as they declared the office of a King, they were not ſilent in that of a Biſhop, ſhewing how either laboured in his way the reducing people to Piety, and a virtuous life; the one by making good laws for compelling the wicked, the other by giving ſuch inſtructions as convinced the inward man.

6. So that we often meet with the Prince extending his commands to the ſame things the Prieſt did his perſwaſions: as

I. In point of Sacraments, *n* That children ſhould be baptized within 30 days after birth. *Leg. Inæ cap.* 2. *pag.* 1. u Jorval. *cap.* 2. *col.* 761.

II. And, becauſe it ſeems ſome Prieſts were negligent performers of that duty, *x* That ſuch as were not prepared, or denied the baptizing of them, ſhould be puniſhed. *Leg. Ed. & Guthruni cap.* 3. *pag.* 42. *excerptiones* Egberti *cap.* 10, 11, 12. *in concil. Spelm. pag.* 259. where you may obſerve the Kings Precept to impoſe on the tranſgreſſor the payment of 12 *ſolidi*, but the Biſhops to be only perſwaſive. x Iorval. *leg. Alured. cap.* 3. *col.* 830. y *What* Ore *was, ſee Mr.* Sumners *Gloſſary.*

III. No perſon to be admitted to the Euchariſt, be a Godfather, receive confirmation from a Biſhop, not knowing the *Pater Noſter* and *Belief. Canones dati ſub Edgaro & legibus ejus annexi, cap.* 17. 22. *p.* 67. *&* z *Leg. Canuti cap.* 22. *p.* 105. *Spelm. Concil. cap.* 22. *pag.* 599. z Iorval *capi* 23. *col.* 921. 57.

IV. That perſons inſtructed ſhould receive the Communion thrice every year. a *Leg. Canut. cap.* 19. *p.* 104. a Jorvalenſis *cap* 21. *col.* 621. 57.

V. Reſtrained by their Laws matrimony to the ſixth degree of conſanguinity. b *Leg. Canut. cap.* 7. *p.* 101. b *Apud* Jorval. *cap.* 11. *co.* 919.

VI. Reſerved to themſelves a liberty of diſpenſing with the marriage even of Nuns. c *Leg. Alured. cap.* 8. *p.* 25. And it is not to be forgot, in that particular, *Lanfrank* joyns the Kings adviſe (as a perſon of equal power) with his own, * *& hoc eſt*, ſaith he, *conſilium Regis & noſtrum.* c Jorval. *cap.* 9. *col.* 823. * Lanfranci *Epiſt.* 32.

VII. Commanded th' observance of Lent *principali auctoritate*. Beda *lib.* 3. *Cap.* 8.

VIII. Appointed certain dates to be held festival by the better sort, but allowed the servant and labourer to work in them. [d] *Leg. Alured. cap.* 39. *pag.* 33. which the laws of *Canutus* seem after to take away. [e] *Leg. Canut. cap.* 42, 43. *Pag.* 118. See there *pag.* 103. *cap.* 14, 16, 17. which was likewise enacted 1393. by *Richard* the 2.

I omit here their edicts for the observation of the *Lords day*, payment of *Tythes*, *Incontinency*, and such like, (held now meerly of Ecclesiastick cognizance) for the multiplicity of them.

IX. Divided old, and erected new Bishopricks. *Beda lib.* 3. *cap.* 7. *lib.* 4. *cap.* 12. *lib.* 5. *cap* 19.

And yet this is that [f] Cardinal *Bellarmin* holds a point of so high concernment, no man can do it without auctority obtained from *Rome*: which yet we never read to have been asked, [g] though *Theodore* 679 erected five (*consensu Regis*) at one time; and some other altogether without the Popes liking, as those in the North, after th' expulsion of *Wilfrid*. Confer *Beda lib.* 4. *cap.* 12. *cum libro* 5. *cap.* 20. But of this before.

X. Caused the Clergy of their Kingdom to meet in councils. *Malms. fol.* 26. a. 38. and sometimes presided themselves in them, though the Popes Legate were present. *Concil. Spelm. pag.* 292, 293. *pag.* 189, *& passim ibid. Vita Lanfranci cap.* 6. *col.* 1. *pag.* 7. *Vide Florent Wigorn. An.* 1070. *pag.* 434.

7. Of the Crowns commanding in these particulars, it is apparent to have been in possession, the Pope seeing and not interrupting any whit, whilst the *Saxon* and *Dane* bare here the sway; when, to speak truth, it seems to me not so much to have been insisted on, by whose auctority the thing commanded was done, as a care taken of all sides nothing should be required but just, and pious; which

d Iorvalensis *cap.* 50. *col.* 826, 60.
e Iorval. *cap.* 67, 68, 69, 70, 71, 72. *col.* 927. *vide ibidem col.* 920 *cap.* 17, 18, 19, 23. Thorn. *col.* 2197, 15.
f *de eccles. lib.* 4. *cap.* 8. *Sect.* Nota tertio.
g Florent. Wigor. *pag.* 559.

which made each precept, without diſpute, from what author ſoever it proceeded, be readily yielded unto: and ſo the *Normans* found it, under whom the firſt contentions (concerning juriſdiction) with the See of *Rome* began. For before *William* the firſt poſſeſt himſelf of this Crown, it is certain, the *Engliſh* Biſhops had no ordinary Courts diſtinguiſh'd from the Lay, but both ſecular and eccleſiaſtick Magiſtrate ſate and judged together, what pertained *ad obſervantiam religionis locis ſuis, & ſuæ diœceſeos Synodis*; as was likewiſe the cuſtom * in *France*.

* *Carol. & Ludovic. capit. lib. 6. cap.* cxi.

8. This were enough manifeſt, in that we find the Lay not only preſent, but ſubſcribers to many of our ancient [g] Councils; did not the Laws of [h] *Ethelſtan*, [i] *Edgar*, [k] *Canutus* farther aſſure us. It is probable, inferiour judicatures did refer matters of doubt to the greater Courts or Scyregemot to be held twice a year, as the former edicts and [l] ſome Councils did eſtabliſh: which produced that care in the Council of [m] *Celichyth* 816. the Biſhop ſhould tranſcribe judgments given *in quibuſcunque Synodo* of what pertained to his Dioceſe, and he to keep one copy, and the party whom it concerned another of ſuch determination (which I take to be thoſe laws mentioned by [n] *Eadmerus*, which as they were repoſed in ſome parts of the Church, ſo where the pleas (as it ſeems) uſually [o] there held.) But the Conqueror, finding theſe proceedings to be *non bene, neque ſecundum ſanctorum canonum præcepta*, &c. did by his Charter make a diſtinction of the Courts, that ſuch as were convented by the Biſhop ſhould anſwer *non ſecundum* Hundred, *ſed ſecundum canones & epiſcopales leges* &c. The Charter to *Remigius* Biſhop of *Lincoln* is upon record, [p] publiſhed by many, and was certainly by the Conqueror directed to every Dioceſe through the Kingdom: for I have ſeen in an hand of [q] *Edward* the firſt one for

g *in concil.* Spelman. *paſſim.*
h *apud* Iorval. *col.* 845, 36.
i *cap.* 5. *p.* 64. Iorval. *pag.* 872. 13. *cap.* 10.
k *cap.* 17. *pag.* 3 Iorval. *cap.* 38. *pag.* 924.
l *Concil. Calcuith, apud* Spelman *cap.* 3. *pag.* 298.
m *apud* Spelman. *concil. p.* 30. *cap.* 9.
n Eadmerus *apud* Gervaſium Doroberneſem, *col.* 1292, 18.
o *apud* Gervas & Sim. Dunelm. *ſive* Turgot. *de Dunelmenſi eccleſia lib.* 3. *cap.* 10. *col.*



§5. 6. p. *See it in Sr.* Ed. Cook *Inſt.* 4. *cap.* 53. *p.* 259. q *In antiquo Manuſcr.*

*London*, testifying it was then found in the Episcopal register there.

9. When this past the King, whether at the Popes Legats being here for deposing *Stygand* 1070. (about which time Historians remember he made some beginning for settling the *English* laws, and is therefore likely to have then past this) or when they were here for settling the dispute between *York* and *Canterbury*, or at what other time, is uncertain. Yet I cannot deny, it seemeth to me to have given th' occasion of those expressions in r *Alexander* the 2. his letter to him, that the world, *in maligno positus, plus solito pravis incumbat studiis; tamen inter mundi principes & rectores egregiam vestræ religionis famam intelligimus, & quantum honoris sanctæ Ecclesiæ tum Simoniacæ vires opprimendo*, (which is apparently spoken of *Stygand*) *tum catholicæ libertatis usus & officia* (by which questionless he points at this charter) *confirmando, vestra virtus impendat, non dubia relatione cognoscimus*, &c. Now certainly, if he did grant it during the life of the Pope, it must not have been after 1073. in which year he died. I confess, I have not met with any clear example of the practice of it during the reigns of that King, or either of his children: For though *Anselme* about 1106. writes to *Henry* the first, (who had punisht certain Clerks not observing the decrees of a Council held at *Westminster* 1102) s *quod hactenus inauditum & insuetum in Ecclesia Dei de ullo Rege & de aliquo principe; non enim pertinet secundum legem Dei hujusmodi culpam vindicare, nisi ad singulos episcopos per suas parochias*: yet I conceive this is to be interpreted of the King doing it alone without the Bishop, not when they both joyned together after the manner then in use, which himself else where u advises *Rufus* unto; *Conemur una, tu regia potestate & ego Pontificali authoritate, quatenus tale quid inde statuatur, quod cum per totum fuerit regnum divulgatum, solo etiam auditu, quicunque illi-*

r *apud* Baron *tom.* 2. *Ann.* 1071. n. 9.

s Eadmer. p. 85, 40.

u *apud* Eadmer. *pag.* 24. 18.

*lius fautor eſt pavent & deprimatur.* I can take this for no other, but that in the laws of x *Ethelſtan*, *Debent epiſcopi cum ſeculi judicibus intereſſe judicio, ne permittant, ſi poſſint, ut aliqua pravitatum germina pullulaverint.* And the laws of y *Henry* the firſt are expreſs, the uſe to have continued in his daies; for they approve the ancient inſtitution, That *generalia Comitatuum placita certis locis & vicibus convenire debere*, That the Judges in thoſe Courts were *Epiſcopi*, *Comites*, *Vicedomini*, &c. The cauſes they dealt in, and order of proceeding, *agantur primo debita veræ Chriſtianitatis jura, ſecundo Regis placita, poſtremo cauſæ ſingulorum*, &c. And why may not *certa loca* here be what *Anſelme* calls *Parochia*, the Conqueror *Hundred*?

x *Apud* Jorvalenſem, col. 145, 36.

y *Leg Hen.* 1. cap. 7. q. 180. 30.

10. But goods laws are not alwaies ſuddenly put in execution; and this of the Conqueror we may take to have ſlept, till towards the beginning of King *Stephen*'s time it had got ſome ſtrength, for then we meet with plain precedents of the Eccleſiaſtick Courts being ſever'd from the Lay. *Theobald* of *Canterbury* moleſting the monaſtery of St. *Auguſtines* concerning certain Priviledges granted from the Papacy, th' Abbot obtained a bull from *Innocentius* 2. of the 20. *November* 1139. in his houſes favour, in which the Pope expoſtulates with th' Archbiſhop, z *quod occaſione privilegii noſtri, idem monaſterium vehementer infeſtas; & eccleſias eidem cœnobio pertinentes eundem Abbatem ordinare non ſines, quin potius violenta dominatione eccleſias eorum firmatas diceris infregiſſe, & presbyteros tuos, invito Abbate, & ejuſdem loci fratribus, contra* Romanæ *eccleſiæ privilegia, quibus idem cœnobium eſt munitum, in eis ponere præſumpſiſſe: nec his contentus, Abbatem ipſum, & homines ejus*, ad placitandum ſuper hoc in curiam tuam, *prout aſſerunt, præſumptuoſe traxiſti, eiſque ob eam rem pœnam molieris inſtigare*, &c.

*Leges inſtituuntur cum promulgantur, firmantur cum moribus utentium approbantur. Diſt. 4. cap. 3.*

z *Habetur hæc bulla in ſplendida Ms. repoſito in aula Sti. Trinitatis Cantabr. ante 200 annos exarato, & in alio Ms. optima nota ante quadringentos annos ſcripto in Scacchario, fol. 49. b.*

11. *William Thorne*, who a mentions this 1139. 4.

a Col. 1800. 46.

*Steph.* observes (which is warranted by the bull it self) *quod iste* Theobaldus *primus Abbatum & convenium ad causas trahere conatus est*, and is the first I have noted in which th' Ecclesiasticks alone did force men to plead in their Courts; which, as it doth prove they then had them, so we may conclude them not long to have been possest of that power: for it is altogether improbable, if that act of King *William* had been in his and his Sons time generally practis'd, but some Arch-Bishop, in above fifty years, might have attempted as much, if not to the Abbot, at least to some other; as after this the examples are frequent, of which one in the 122 epistle of *Johannes Sarisburiensis* is not unworthy the remembring. *Symphorian* a Clergy-man of *York*, accused one *Osbert*, Arch-deacon of the same Church, before King *Stephen*, the Bishops and Lords, 1154. for making away *William* the late Arch-Bishop of that See by poyson. A question grew, to whether Court this cause belonged. The King affirmed it to belong to the temporal, for the heynousness of the fact, and because it was first entered upon in his presence. But before the decision *Stephen* dyed, and *Henry* the 2. succeeded; *de cujus manibus* (saith my Author) *vix cum summa difficultate, in manu valida, cum indignatione Regis & omnium procerum jam dictam causam ad examen ecclesiasticum revocavimus*; from whence it was by *Appeal* carryed to *Rome*.

12. But what this *manus valida* should be, that took the case from the King, I cannot imagine: for it is undoubted, in all disputes of this nature, the Kings Courts have been ever Judges to what Court the cause did belong. *Bracton* speaks very clearly; b *Judex Ecclesiasticus cum prohibitionem à Rege susceperit, supersedere debet in omni casu, saltem donec constiterit in curia Regis ad quem pertineat Jurisdictio: quia si Judex Ecclesiasticus æstimare posset an sua esset Jurisdictio, in omni casu indifferenter procederet non obstante regia prohibitione*, &c. and 1080 *William*

b Lib. 3. de exceptionibus cap. 15. Sect. 3. fol. 412. a.

*liam* the first, in a [c] Council at *Illeben* in *Normandy*, by th'advise of both estates, Ecclesiastick and Secular, did settle many particulars to belong to the cognizance of the spiritual Judge; and concludes, that if any thing were further claimed by them, they should not enter upon it, *donec in curia Regis monstrent quod habere debeant*. Neither were the Lay to molest them in the exercise of ought there mentioned, *Donec* in curia Regis monstrent *quod Episcopi inde habere non debeant*. So in both reserving the decision to his own Courts, of what pertained to each: in so much as, what that strong hand should be, did thus take this from the King, I must profess not to understand. And that our Kings had ever an inspection over those Courts, is not to be doubted, by the Charge against *Becket*, in which *Henry* the 2. urgeth, [d] *quod cuidam* Johanni *coram ipso litiganti plenam justitiam non exhibuit, & super hoc ad Regis præsentiam vocatus, venire contempsit*. To which th' Arch-Bishop answered, *præfato* Johanni *condignam non defuisse justitiam, &* Johannem *non legaliter curiam suam infamasse, qui non super evangelium, ut moris est, sed super veterem cantuum codicillum, quem secum tulerat, voluerit pejerare*, &c. and for his not attending the King, to give him satisfaction in the point, pleaded th' excuse of sickness; yet for that contempt was adjudged to lose his moveables.

c *Concil. Illeben cap.* 47 *apud* Order. icum Vitalem *p.* 532, 534.

d *Apud* Gerv. Dorobern. *col.* 1389, 37. *An* 1164. *see Rot. Parl. at Leicester, 2. Hen. 5. pet. des Coes. 5.*

By which it is evident, th' Arch-Bishop did then [e] exact oaths of such as were called into his Court, that he was to give an account to the King of his carriage in it, who by his constitutions hath ever directed the manner of proceeding in it. See *Mat. Paris Anno* 1247. *pag.* 727, 29. *Anno* 1246. *pag.* 716. 1. But of this [f] more hereafter.

e Gervas. Dorobern. *col.* 1389, 42. Hoveden, *An.* 1165. *fol.* 283, 2. 22.

f *n.* 17. *Sect.* xvii.

13. The Conqueror, though he did shew so much complyance with the *Romanist*, as not to deny any thing former Kings had acknowledged to the Papacy as due, yet farther

g *Wmus Gregor. 7. inter Lanfranc. ep. 7. p. 304. & apud* Baron. *tom* 11. *An.* 1079. *n.* 25.

farther than g they had gone would in nothing ſubmit unto it: and as they had by their edicts guided the eccleſiaſtick affairs of this Kingdom, ſo he proceeded in his laws, h *à legibus ſanctæ matris Eccleſiæ ſumens exordium*; as did his Son i *Henry* the 1. How far they did conceive this their power to extend in thoſe matters, nothing can better teach us than the Laws they and ſuch as came after them (princes againſt whom no exceptions can lye) eſtabliſht, and uſages they maintained as the rights of the Kingdome, in oppoſition of all encroachments whatſoever.

h *Hoveden, fol.* 343. *a.* 19.

i *Leg. Hen.* 1. *cap.* 5, 7. *& paſſim ibidem.*

14. To enumerate all theſe Priviledges (I conceive them with our anceſtors better called Rights) I hold impoſſible, the foundation or ground upon which they are built being that power the divine wiſdom hath inveſted the ſecular Magiſtrate with, for preſervation of his Church and people in peace, againſt all emergencies from whatſoever proceeding; as the Biſhops of the Province of *Canterbury* writ to *Thomas Becket* 1167: k *Rex à Domino conſtitutus paci providet ſubjectorum per omnia; ut hanc conſervet Eccleſiis, & commiſſis ſibi populis, dignitates Regibus ante ſe debitas & exhibitas ſibi vult exhiberi.* And this iſſuing from ſo great auctority, as in effect the body of all the Clergy of the realm, cannot be imagined to be other than the conſtant opinion of th' *Engliſh* Church. In what theſe Rights have been put in practice in oppoſition to *Rome* (of which I now treat) may in ſome ſort be told: but to ſay theſe they are, and no other, is that I mean cannot be. So that we may ſay the affirmative, *theſe they are*, but not the negative, *others they are not*. Therefore *Eadmerus* will have it of the Conquerour, that l *Cuncta divina ſimul & humana ejus nutum expectabant*, that is *in foro exteriori*; inſomuch as, when the Clergy 1530. gave the King the title of *Head of the Church*, they intended no other than their fore-fathers, when they called

k *Apud Hoved. fol.* 292. *b.* 3.

l Eadmer. p. 6 21.

called him the [m] *Defender, Patron, governor,* [n] *Tutor* of it.

15. Which the *French* do attribute to their Kings with more hard expreſſions; [o] *Ce que monſtre* (ſays one) *que les eveſques de ce temps la, eſtimerent le Roy, aſſiſté de ſon conſeil d' eſtate apres Dieu* Chef terrien *de l' Egliſe de ſon Royaume, & non pas le Pape,* in the negative: Which another [p] explains thus, *Ce n' eſt point pour cela que je vueille dire, ce que aucuns ont trop indiſtinctement proferé, que les dits Roys & Princes Souveraignes ſoient en leurs eſtats privativement à tous autres, Chefs uniques & abſolus de l' Egliſe, & de tous les miniſtres d' icelle; car pour le reguard de ce que concerne le maniement des choſes purement ſacrees, come l' adminiſtration de la parole de Dieu, & des Sacrements, & la puiſſance de lier ou delier, voire de regler en particulier le dedans de chacune Egliſe, la ſurintendance en appartient aux Eveſques, & autres Chefs de la Hierarchie Eccleſiaſtique, a chaſcun ſelon leur rang & degrè.* Then ſhewing by a compariſon, that as the head-Architect leaves to his inferior Agents the uſe of ſuch inſtruments as are proper for their undertakings; ſo, *il n' appartient point au Roy de manier les choſes ſacrees, ny ſupporter comme l' on dit l' arche d' alliance, ils doivent laiſſer cela a ceux de la vocation; mais ils peuvent voire ſont tenuz devant Dieu, veiller ſans ceſſe, & avoir l' oeil ouvert a ce que ceux de ceſt ordre & profeſſion principale, auſſi bien que ceux des autres moindres, apportent en loy aucun & ſain conſcience tout ſoin, diligence, purete, & ſincerite, au maniement des charges a eux commiſes, conformement a leur loix, regles & canons; leſquels au cas qu' ils ſeroient negligez, & effacez par la rouille de l' antiquite, ou que par la malice des hommes il fuſt beſoign d' enfaire des noveaux, ils ſont tenu uſer de leur puiſſance, pour y apporter des remedes, ſoit par leur Ordonances & pragmatiques, ſoit par leurs jugements, arreſts, & executions d' iceux. C' eſt ce qu' en France nos predeceſſeurs ont touſ jours appelle, la police exterieure ſur l' Egliſe, de la quelle les Empereurs, Roys &*

[m] Mat. Paris an. 1241 pag. 555. 15.
[n] *Epiſt Univerſit. Anglia ibid. An.* 1245 pag. 667. 38. *ibidem.*
[o] Claude Fauchet *en les libertes de l' Egliſe Gallicane in quarto. à Pari.* 1612. *avec Privilege, p.* 234. *&* 1639. *p.* 179.
[p] Charles le Faye *ibid. pag* 287. *in edit.* 1649. *p.* 230.

*Princes ont uſe & jouy ſans contredit, tant que l' eſgliſe ſ' eſt conſervee en ſa purete, & qu' aucuns d' icelle ne ſe ſont ingerez, ſortants de leurs bornes & limites d' uſurper les functions Royales.* Inſomuch as *Benigne Mileltot* doth not only affirm their Kings to be [q] *Chefs, Protecteurs, & Conſervateurs de leur eſgliſe Gallicane*; but *pag.* 657. recites a ſpeech of th' Arch-biſhop of *Vienna* made to *Henry* the 4. 1605. in which he did affirm, *que le Roy eſtoit le Coeur & la Teſte de leur corps.*

[q] *Du deliſt. commun. pag.* 528. *editionis* 1639.

16. And other *Headſhip* than this I do not know to have been ever attributed to any of our Princes: Certainly they did never take on them the exerciſe of any thing purely ſacred, but as ſupream [r] *Head, Rulers*, or *Governours*, under God, by their Commiſſioners, (of which ſuch as bare moſt ſway were ever the Spirituality) *to viſit, reform, redreſs*, &c. *all Errors, Hereſies, Schiſms, abuſes*, &c. And for that the ruſt of Antiquity (as that Author ſtiles it) had much over-ſpread the Canons of the Church, [t] to aſſign ſixteen of the Clergy, whereof four to be Biſhops, and as many of the Lay, of which four to be learned in the Common laws of this Realm, *to peruſe and examine th' eccleſiaſtical Laws of long time here uſed, and to gather, order, and compile ſuch laws Eccleſiaſtical, as ſhall be thought to his Majeſty, his ſaid* * *Council, and them or the more part of them, to be practiſed and ſet forth within this Realm.* In purſuance of which, the 11. *November* 5. of *Edward* the 6. he nominated two Biſhops, two Divines, two Doctors of the Law, two Eſquires, to ſuperviſe the Eccleſiaſtick Laws of this Kingdom, and to compile ſuch a body as were fit to be put in practiſe within his Dominions; whoſe intendments (for it paſt no further) were after Printed by *John Day* 1571. and are no other than what the French (for the manner of doing) maintain their King might do: neither doth th' Inquiſition of *Spain* publiſh any thing of that nature, without th' allowance of their King, as I ſhall ſhew [u] hereafter.

[r] 26. *Hen.* 8. *cap.* 1. 1. *Eliz. cap.* 1.

[t] *Stat.* 3 & 4. *Ed* 6. *cap* 11. *ſee before.* 25. *Hen.* 8. *cap.* 19. 27. *Hen.* 8. *cap.* 15. 35. *Hen.* 8. *cap.* 16.

* *Council.*

[u] *cap.* 7. *n.* 12.

17. So

17. So that, in my opinion, the queſtion cannot be, whether Princes are not capable of ſuch a Right; but whether it were inveſted in the Crown formerly, and made good by ſuch a continued practice, as might authorize ours to take that title (when offered by the Clergy 1530.) as well as the *French* Kings have, without incroaching on that power th' eccleſiaſticks had, and by our laws ought to exerciſe in *England*. Now, certain, our Kings did in many things go along with the *French* in cauſes eccleſiaſtical: [x] *Rex Anglorum, exemplum accipiens ab illis Baronibus qui ſua ſtatuta ſanxerunt in Francia, quibus & Dominus Francorum favorem jam præbuit, & ſigillum appoſuit*, &c. *Clement* the 7. being held priſoner 1527. by th' Emperour, the 18. of *Auguſt* Cardinal *Wooliy* made an agreement with the *French*, for ſetling th' eccleſiaſtick government of each Kingdom during the Popes captivity. For the *French*, I ſhall remit the reader to the [y] Deed which is printed; but th' *Engliſh* were to be ſuch as ſhould be agreed to, *prælatis accitis de mandato & auctoritate prædicti invictiſſimi Angliæ Regis*, whoſe determinations were to be *conſenſu ejuſdem invictiſſimi Angliæ Regis*. But where [z] my Lord *Herbert* conceives this to have been the firſt taſte our King took in governing the Clergy, I can no way be of his opinion; for, without peradventure, the Cardinal neither did nor durſt have moved one ſtep in making the Eccleſiaſticks leſs depend on the Papacy, than the Common law or cuſtom of the realm warranted, knowing he muſt without that back have loſt not only *Clement* the 7. but all Popes and the Court of *Rome*, which muſt and had been his ſupport, on the declining favour of ſo heady and dangerous a Prince as *Henry* the 8. had he not caſt off both the Cardinal and his obedience to that See almoſt together. But how much he had the Clergy before this under his government, the Hiſtory of [a] *Richard Hunne* is witneſs ſufficient: and the rights the Conquerour and his ſucceſſours

x Mat. Paris anno 1247. p. 727, 26.

y *Preuves des libertés de l'egliſe Gallicane, cap.* 20. n. 33, p. 529.

z *Hiſt. Hen.* 8. p. 219.

a *See* Hall 6. *Hen.* 8.

were ever in contest with the Papacy about, and maintained as the laws & customs of the Realm, enough shew they did not command th' Ecclesiasticks here according to the will of any forraign Potentate, nor were meer lookers on, whilst another govern'd the *English* Church: some of which I shall therefore set down.

I. They [b] admitted none to be taken for Pope but by the Kings appointment.

II. [c] None to receive letters from him without shewing them to the King, who caused all words prejudicial to him or his crown to be renounced by the bringers, or receivers of them.

III. [d] Permitted no Councils, but by their liking, to assemble; which gained the name of Convocations; *as that* [e] *always hath been and ought to be assembled by the Kings writ.*

IV. [f] Caused some to sit in them might supervise the actions, and *legato ex parte Regis & regni inhiberent, ne ibi contra Regiam coronam & dignitatem aliquid statuere attentaret*: and when any did otherwise, he was forced to retract that he had done, as [g] did *Peckham*; or were [h] *in paucis servatæ*, as those of *Boniface*.

V. [i] Suffered no Synodical decree to be of force, but by their allowance and confirmation. [k] *Rex auditis concilii gestis, consensum præbuit, auctoritate regia & potestate concessit & confirmavit statuta concilii à Gulielmo, Cantuarienſi Archiepiſcopo, & ſanctæ Romanæ eccleſiæ Legato, apud* Westmonasterium *celebrati.* [l] *In hoc concilio, ad emendationem eccleſiæ* Anglicanæ, *aſſenſu Domini Regis & primorum omnium regni, hæc ſubſcripta promulgata ſunt capitula*, &c.

VI. Permitted no Bishop to [m] excommunicate, or inflict any ecclesiastick censure on any Baron or Officer, *nisi ejus præcepto.*

VII. [n] Caused the Bishops appear in their Courts, to give account why they excommunicated the subject.

VIII. [o] Caused

b Eadmer. *p.* 6 26. *Vide Epiſt. Hen. Chichley in vita ejus, edit.* 1617. *p.* 77, 78.
c Eadmer. *ibid. & pag.* 113. 1. Thorn. *col.* 2152, 1. & 2194. 18. & *alibi.* Cook *Inſt* 3. *p.* 127.
d Eadmer. *p.* 24 5. 11.
e *Stat.* 25. *Hen* 8. *c.* 19.
f Mat. Paris *Anno* 1237. *p* 447. 51.
g *Vide* Seld. *de Synedriis part.* 1. *p.* 373.
h Lyndwood *de foro competenti, cap.* 1. *Gloſſ.* 1.
i Eadmer. *p.* 6. 29.
k Flor. Wigorn. *Anno* 1127. *p.* 505.
l Gervas. Dorobern. *Anno* 1175. *col* 1429. 18.
m Eadmer. *pag.* 6. 31.
n M. Paris *Additament. p.* 200. *num.* 7. *See Articuli cleri* 9. *Ed* 2. *cap.* 7.

VIII. [o] Cauſed ſuch as were impriſoned, after forty days ſtanding excommunicate, to be freed by writ, without th' aſſent of the Prelat, or ſatisfaction giving; [p] the King and his Judges communicating with them *tam in divinis quam profanis*, [q] and commanding none to ſhun them, though by the Ordinary denounced excommunicate.

[o] *Ibid.* n. 10.

[p] *Ibid.* n. 12.

[q] *Ibid.* n. 13.

IX. [r] Suffered no Legat enter *England* but with their leave; of which before.

[r] Eadmer. p. 58, 40. *pag.* 113, 1. *p.* 118. 28.

X. [s] Determined matters of Epiſcopacy, *inconſulto Romano Pontifice.*

[s] Eadmer. p. 115, 23, 31.

XI. Permitted no Appeal to *Rome*; of which before.

XII. [t] Beſtowed Biſhopricks on ſuch as they liked, and [u] tranſlated Biſhops from one See to another.

[t] Flor. Wigorn. *Anno* 1070. *p.* 536. Hunt. *fol.* 219. a. 1.

[u] Eadmer. *p.* 94. Flor. Wigorn. *Anno* 1109.

XIII. Erected new Biſhopricks: ſo did *Hen.* the 1. 1109. *Ely*, taking it out of *Lincoln*, [x] *Carliſle* 1133. out of *York* or rather *Dureſme*: but of this before.

[x] Johannes Hagulſtad. *col.* 257, 48.

XIV. [y] Commanded by writ their Biſhops to reſidency.

[y] *Vide* Cook *Inſtit.* 2. *p.* 625.

XV. [z] Commanded their Biſhops, by reaſon of Schiſm, vacancie of the Popedom, &c. not to ſeek confirmation from *Rome*, but the Metropolitan to be charged by the Kings writ to beſtow it on the elected.

[z] *Rot. Parl.* 16. *March.* 3. *Hen.* n. 11. *Anno* 1414. *John* 23. *Pope.*

XVI. [a] Placed by a lay hand Clerks in Prebendary or Parochial Churches, *Ordinariis penitus irrequiſitis.* And it is not here unworthy the remembring, that *Wm Lyndwood*, a very learned Canoniſt, who writ about an 100. years before *Henry* the 8. difference with *Clement* the 7. finding the Crown in poſſeſſion of this particular not agreeing with the rules of the Canon law, is ſo perplext, as in the end he finds no way to make] the act valid, [b] but that he doth it by Papal priviledge: For if by preſcription, *Epiſcopo ſciente & tolerante*, it could not be good; for though the King might confer the temporals of the Church, *non tamen poteſt dare jure ſuo poteſtatem circa ſpiritualia, viz. circa ea qua pertinent ad regimen*

[a] Mat. Paris *Additament.* *p.* 200. n. 6.

[b] *De cohabitatione Clericorum & Mulierum, cap* 1. *ad verbum* Beneficiati, *fol.* 64. b.

*men eccleſiaſticum, & miniſtrationem ſacramentorum & ſacramentalium, nec non circa eccleſiaſtica Juriſdictionis exercitium, & hujuſmodi, quæ jure ſpiritualia ſunt; nec in hoc caſu poteſt ſibi prodeſſe præſcriptio etiam longiſſimi temporis, quia talia ſpiritualia non poſſunt per regem poſſideri, &, per conſequens, nec ut tranſeant ſub ſua poteſtate poſſunt præſcribi, nec conſuetudine introduci*, &c. In which he will have an hard conteſt with divers *French* and *Italians*, who maintain, [c] *Che tutte le raggioni che ſi poſſono acquiſtare per diſpenſa del Papa, ſi poſſono acquiſtar anco per conſuetudine, la quale ſopravenga contraria alla legge:* that a Prince may preſcribe for ſuch acts as he can acquire by the Popes diſpenſation.

[c] *Conſiderationi di Padre Paolo Venet.* 1606. f. 31. a. *vide* Fulgentio *in difeſa d' eſſi*, p. 312. *& ſequent.*

XVII. [d] Prohibited the Lay yielding obedience, or anſwering by Oath to their Eccleſiaſtick ſuperiour inquiring *de peccatis ſubditorum*: which I take to have been in caſes not properly of their cognizance, not of witneſſes either in cauſes Matrimonial or Teſtamentary.

[d] Mat. Paris *Additament.* p. 200. n. 9. *& in hiſtoria majori* p. 716. 7. *vide* Selden. *de Synedriis part.* 1. c. 10. p. 383.

XVIII. I ſhall conclude theſe particulars with one obſervation in *Mat. Paris*; where the Eccleſiaſticks, having enumerated ſeveral caſes in which they held themſelves hardly dealt with, add, [e] That in all of them, if the ſpiritual Judge proceeded contrary to the Kings prohibition, he was attached, and, appearing before the Juſtices, conſtrained to produce his proceedings, that they might determine to which Court the Cauſe belonged: and if found to pertain to the ſecular, the ſpiritual Judges were blamed, and, on confeſſion they had proceeded after the prohibition, were amerced; but denying it, were compell'd to make it good by the teſtimony of two * vile Varlets, but refuſing ſuch purgation, were impriſoned, till by oath they freed themſelves to the Juſtices; that being cleared even by the Lay, they had no ſatisfaction for their expence and trouble. By which, by the way, it is manifeſt how much the Kings Courts had the ſuperintendency over the Eccleſiaſtick.

[e] Mat. Paris *Additament.* p. 202. n. 30.

* *Viliſſimi ribaldi.*

18. Theſe

18. Theſe, and many other particulars of the like nature, daily exerciſed, notwithſtanding the clamour of ſome Eccleſiaſticks, more affecting their own party than the rights of the Crown, make there can be no ſcruple, but the Engliſh did ever underſtand the outward policy of this Church, or government of it *in foro exteriori*, to have much depended on the King; and therefore the Writs for ſummoning Parliaments, expreſs the cauſe of his calling them to be, *pro quibuſdam arduis, urgentibus negotiis, nos, ſtatum & defenſionem regni noſtri Angliæ & eccleſiæ Anglicanæ concernentibus,* * or, as our Biſhops have ſometimes expreſt it in the Rolls of Parliament, *à l'onour & reverence de Dieu & de ſeinte eſgliſe, & al ſalvation & amendement de ſon roialme,* &c. Likewiſe the Commons, that their giſt of the 9. ſheaf, &c. to *Edw.* the 3. to have been for his defence of the Kingdom, *& de ſeinte eſgliſe d' Engleterre*: Rot. Parliament. 15. *Ed.* 3. n. 25. According to which our Kings joyned both together, profeſſing their care for amending the Church to be equal with that of the Common wealth.

* Eveſque d' Exceſtre Chancellor. Rot. Parl. 20. Ric. 2. n. 13.

† *Item fait aſſavoir, que noſtre tres ſoveraigne ſeigneur le Roy, eiantz grande volunté & deſir* de l'eſtate de ſon eſgliſe, *& de ſon Royalme, en les choſes ou meſteir eſt d' amendement, al honor de Dieu, & pur la pees & la commune profit de ſeinte eſgliſe* d' Engleterre, *come de tout ſon Royalme, d'el' advis & aſſent des ſeigneurs eſperituells,* &c. *ad fait,* &c. In purſuance of which intereſt reſiding in the Crown, the Lords and Commons under *Rich.* the 2. fearing the opinions called *Lollardy* might prevail ‡ *petierunt à Rege de iſtis remedium apponi, ne forte archa totius fidei eccleſiæ talibus impulſionibus in illius temporibus, pro defectu gubernaculi, irremediabiliter quateretur.* Upon whoſe deſires, he commanded th' Arch-Biſhop of *Cant.* and his others Biſhops, *ut officium ſuum ſinguli in ſuis diœceſibus ſecundum jura canonica acrius & ferventius exercerent, delinquentes caſtigarent, libroſque eorum* Anglicos

† Rot. Parl. at Leiceſter 2. Hen. 5. n. 10.

‡ Hen. Knighton col. 2708. 40. Anno 1387.

glicos *plenius examinarent, errata exterminarent, populumque in unitatem fidei orthodoxæ reducere ſtuderent, eccleſiamque urticis [&] vepribus deſloratam liliis & roſis ornarent*, &c. After which, the ſaid author records a Commiſſion, by which his Majeſty, as *Defender* of the Catholick Faith, did impower certain to ſeize upon heretical books, and bring them before his council: and ſuch as after proclamation ſhall be found to hold ſuch opinions, being called and examnied before two Commiſſioners (who were of the Clergy) and lawfully convicted thereof, to be by his Majeſties miniſters commited to the next priſon. * Fourteen years after which, the Commons ſhew *Hen.* the 4. the Parliament might be compared to a Maſs, in which th' Arch-Biſhop of *Cant.* being th' office, reading th' Epiſtle and expounding the Goſpel, (which, it ſeems, the) took to be the part of the Eccleſiaſtick, as did the * *Saxons* before) *& à la meſne qe ſeuſt la ſacrifice d' eſtre offertz à Dieux pur touz Chriſtiens, le Roy meſmes à ceſt Parlement, pour accomplir celle meſne, pluſieurs foitz avoit declarez pleinement a toutz ſes lieges, coment ſa volunte feuſt, qe la foy de ſeint eſgliſe feuſt governez en maniere come il ad eſte en temps de ſes nobles progenitors, & come il eſt affirme par ſeint eſgliſe, par les ſeints Doctours, & par ſeint Eſcriture*, &c. and a little after, ſhewing they the Commons were only to ſay *Deo gratias* which they were obliged to do for three reaſons, the ſecond of which is, *pur ceo qe la en la Foy de ſeint eſgliſe, par malvaiſe doctrine feuſt en point, d' avoir eſte anientz, grand ſubverſion du Roy & du Royalme, meſme noſtre Seigneur le Roy ent ad fait & ordeignez bon & jouſt remede, en diſtruction de tiel doctrine, & de la ſect d' ycel peront ilz ſont enſement tenuz de diri cel parole* Deo gratias. By all theſe it muſt be granted, they did hold the chief care of the *Engliſh* Church to have depended (in the outward policy of it) on the prince; or elſe that they did ſpeak and do very unadviſedly in attributing

* Rot. Parl. 2. Hen. 4. n. 47.

* cap. hoc, n. 6.

buting ſo much unto his care of it, and providing that he might be ſupplyed to defend it, without at all mentioning any other to whoſe care it belonged,

19. Neither did theſe expreſſions and petitions paſs the Commons only, or the Clergy over-ruled by the numbers of the temporality; but the Biſhops by themſelves acknowledged how much it ſtood in his Majeſties care to provide againſt any novelties creeping into the *Engliſh* Church, and that it might enjoy the rights and liberties belonging to it: and therefore, when the ſaid doctrine of *Lollardy* continued encreaſing, they, in the names *Prælatorum & cleri regni Angliæ*, petition [h] *Henry* the 4. *Quatenus---inclitiſſimorum progenitorum & anteceſſorum veſtrorum laudabilia veſtigia gracioſe conſiderantes, dignetur veſtra regia celſitudo pro conſervatione dictæ Eccleſiæ* Anglicanæ, *ad Dei laudem, veſtrique meritum, & totius regni prædicti proſperitatem & honorem, & pro hujuſmodi diſſentionibus, diviſionibus, dampnis & periculis evitandis, ſuper novitatibus & exceſſibus prædictis in præſenti Parliamento providere de remedio opportuno &c.* Did not theſe then hold it the office of the King, as that his progenitors had ever done, to provide, no diſſenſions, ſcandals, diviſions might ariſe in the Church, the Catholick faith might be truly conſerved and ſuſteined? and what other did any of our Princes ever challenge or aſſume?

h *Rot. Parl.* 2. *H.*4 *n.* 48.

20. When the Clergy likewiſe went at any time beyond their bounds, or were negligent performers of their duties, the ſubject upon all occaſions had recourſe unto his Majeſty, as to whoſe care the ſeeing what was amiſs redreſt did eſpecially belong: as when the Eccleſiaſtick Courts were grievous for the fees, [k] or their pecuniary penances too heavy, when they were oppreſt by Papal proviſions (of which before) when through the abſence of their Curat they were not ſo well taught &c. [*] when the

i *Rot. Parl* 50. *Ed.* 3. *n.* 84. 1 *R.*2. *n.* 108.

k *Rot. Parl. Octav. Purif.* 25. *Ed.* 3. *n.* 35.

* *Rot. Parl. Octav. Purif.* 25. *Ed.* 3. *n.* 31.

* *Rot. Parl. at Leceſter 2. Hen. 5 pet. des Coes. 5. vide Rot. Parl 46. Ed. 3. n. 36, 37. n. 41, 42.*

the frequency of the writ *de excommunicato capiendo* made it burthenſome, * when men were cited by them on cauſes neither Matrimonial nor Teſtamentary, and appearing were not allowed a copy of the libel againſt them. In which caſe the Kings anſwer is not unworthy the repeating, ſhewing clearly, he directed how they ſhould proceed; *le Roy voet que a quel heure la copie de le libel eſt grantable par la ley, q' il ſoit graunte & livere a la partie, ſanz difficulte.* It is true, Kings would refer matters of that nature to their Biſhops, unto whoſe care under them it did eſpecially belong: *Richard* the 2. being [l] petitioned in point of Reſidency, anſwered, *Il appartient aux offices des Eveſques, & le Roy voet qu' ils facent lour office & devoirs*, &c. [m] His ſucceſſor being again preſt in the ſame kind, gives his command thus, *Facent les Ordinaires lour office & devoirs: & per cauſe qe les pluralites q'ont eſte grantees devant ces heures ſont & ount eſte la greindre cauſe de l' abſence des tiels curats, y pleſt au Roy noſtre Seigneur de l' advis & aſſent des Seigneurs en Parlement, eſcrire par ſes honourables lettres a noſtre ſeint pier le Pape, de revoker & repeller toutes les pluralites generalement, & qe d' es ore en avant nulle pluralite ſoit graunte a aſcuny en temps a venir.* But the Pope, it ſeems, giving no ſatisfaction in the particular, the [n] 11. *Hen.* 4. the Commons again petition, That the riches of the kingdom being in the hands of Church-men, thoſe livings upon which the incumbent of common right ought to reſide, half of the true value ſhould remain to himſelf, but the other to the King. To which the anſwer is, *Ceſte matiere appertient a ſeinte Eſgliſe, & quant a la reſidence, remede ent fuſt purveuz en la darrain Convocation.* Yet this matter of non-reſidence ſtill moleſting the Common wealth, 3. *Hen.* 6. the King tells them, by th' adviſe of the Lords of Parliment, [o] *He had delivered their bill to my Lord of* Canterbury, *charging him to pourvey of remedy for his Province, and ſemblably ſhall write*

l *Rot. Parl. 17. Ric. 2. n. 43.*

m *Rot. Parl. 7. H 4. n. 114.*

n *Rot. Parl. 11. Hen. 4. n. 70.*

o *Rot. Parl. 3. Hen. 6. n. 37, 38, vide 4. Hen. 6. n. 31.*

*write to the Church of York for that Province.* By which we may ſee the King, Arch-Biſhop, and Convocation did conceive themſelves to have a power of redreſſing things in this Church, which yet in civility they thought fit [p] firſt to acquaint the Pope with, as a ſpiritual Doctor or Patriarch, however of great eſteem, yet not endued with a power of commanding in this Church otherwiſe than the laws of the Kingdom, the contracts with the Papacy did bear.

p *See cap.* 3. *n.* 14, 19.

21. Now it cannot be doubted that all theſe petitions of the Commons, and ſundry more which may be produced, had been by them vainly preſer'd, had they not taken the King to have been veſted with a power of redreſſing things blameable in the government of the Church. But when we ſay the Prince, as the Principal, without whom nothing is done, may be rightly termed *Head* in the act of reformation; our meaning is not, that he will deal in points of Eccleſiaſtick cognizance without the adviſe of his Biſhops, and other learned of the Clergy: we know, in things proper, [q] *Joſuah* is to take counſel of *Eleazer*, and the Kings of this nation have ever done ſo.

q *Numbers* xxvii. 21.

22. When *Edgar* intended the advancing *Chriſti gloriam*, he choſe him three Biſhops to be his * *patres ſpirituales* and *conſiliarios*. But to ſpeak of later times: [r] when the Commons endeavoured a reformation of ſome things in the Church, *Hen.* the 8. would not anſwer their deſires, till he had firſt acquainted the Spirituality. When he intended to publiſh a [ſ] book of the *principal articles and points of our faith, with the declaration of other expedient points, and alſo for the lawfull rites and ceremonies to be obſerved within this realm, he ordained it to be by th' Arch-Biſhops and ſundry Biſhops of both Provinces, and alſo a great number of the beſt learned, honeſteſt, and moſt virtuous ſort of Doctors of Divinity, men of diſcretion, judgment, and good diſpoſition*, &c. And *Edward*

* *Concil.* Spelm. p 433.

r *Hall* 25. *Hen.* 8. *fol.* 202. b. 24. *Hen.* 8. *fol.* 205. a. Herbert p. 329.

1536.

ſ *Stat.* 32. *Hen.* 8. *cap.* 26.

*ward* the ſixth minding a farther reformation of ſome uſages in the adminiſtration of the Euchariſt, he cauſed it to be [t] made *by the moſt grave and learned of his realm*, for that purpoſe by his directions aſſembled at *Windſor*; who afterwards, [u] *for taking away divers and ſundry differing forms and faſhions had formerly been uſed in ſundry Churches of* England *and* Wales, *appointed th' Arch-Biſhop of* Canterbury, *and certain of the moſt learned and diſcreet Biſhops, and other learned men of the realm, to conſider of the premiſes, who, by the ayd of the Holy Ghoſt, with one uniform agreement concluded on and ſet forth the book of Common prayer* &c. Upon which the two houſes of Parliament, *conſidering as well the moſt godly travell of the Kings highneſs, —— in gathering and collecting the ſaid Arch-Biſhops, Biſhops and learned men together, as* &c. *do give to his Highneſs moſt hearty and lowly thanks* &c. So that it is apparent, the King, in compoſing this book, did not aſſume to himſelf, or the Parliament attribute unto him any other than aſſembling of the Biſhops and other learned men together, to take their conſultations.

t Fox *Acts and Monuments*, tom. 2. p. 658. col. 1 & 2. pag. 659. col. 2.

u *Statut.* 2 & 3. *Ed.* 6 cap. 1.

23. And they obſerving the great [x] diverſity in ſaying and ſinging in ſeveral Churches, the difficulty of finding what was proper for each day, (apt to breed confuſion) reduced the publick ſervice of the Church to one form more facile and of better edification, following therein the examples of divers holy Biſhops, and others: for if [y] *Guarinus* Abbot of St. *Albans*, in the Office uſed in his Church about 1190, might *ſuperflua reſecare*, to reduce the prayers there to one form, if [z] *Agobardus* in *France* might *amputare ſuperflua vel levia* &c. if [a] *Oſmund* Biſhop of *Salisbury* in England, *quoniam ſingulæ fere Diœceſes in ſtatis & precariis horis dicendis variabant, ad hanc varietatem tollendam, & ut quaſi abſolutum quoddam precandi, quo omnes uti poſſent, exemplar exſtaret, eos in eum fere ordinem & commodam rationem, quam hodie omnes prope* Angliæ, Cambriæ, & Hiberniæ (viz.

x *Preface to the book of Ed. the 6.* 1549.

y Mat. Paris *vit. Abbat. S. Albani*, p. 101, 17, 19.

z Agobardi *opera, Paris*, 1605. p. 392.

a Harpsfield *Hiſt. Anglican. Eccleſ. ſeſſ.* xi. *cap.* 19. *pag.* 251, 48.

(viz. the Course of *Salisbury*) *Ecclesiæ sequuntur, magno & prudenti rerum ex sacris scripturis, & probatis Ecclesiæ historiis delectu, distribuit & digessit*; if these, I say, might do it on their own motion, there is no question, such of the Clergy as were appointed by the King, might on his desire take it into consideration, and remove matters offensive, or less to edification.

24. Neither did Queen *Elizabeth* at the beginning of her reign [b] alter some passages in it, but by the opinions of Divines *eruditis & moderatis*; to whom was added a learned Knight *Sr Thomas Smith*, to whose care the supervising of it had by the house of Commons been committed the second of *Edward* the sixth, and therefore knew better than any other to give an account of that book.

b Camden. *Annales Eliz.*

Nor did her self, or the house of the Lords use differing ways, [c] when the Commons at other times have sought some change in the Ecclesiastick government; as the 23. and 27. of her reign, where though the Lord Treasurer made a short beginning, yet he left the satisfactory answers to be given them by th' Arch-Bishop of *York*.

c *Journ. des Cões 23. Eliz. March 3. & 7. & 27. Eliz. Februar. 25.*

Insomuch as we may safely conclude, when the Clergy in Convocation styled *Henry* the 8. *Ecclesiæ Anglicanæ protestorem unicum, & supremum dominum, &, quantum per Christi leges licet, supremum caput*, they added nothing new unto him but a title; for he and his successors after it, did never exercise any auctority in causes Ecclesiastick, not warranted by the practice of former Kings of the nation.

By all which the second question remains sufficiently proved, that our Kings were originally endued with auctority to cause the English Church be reformed by th' advise of their Bishops, and other of the Clergy, as agreeing with the practice of all ages. For who introduced the opinion of Transubstantiation? made it an article of Faith? barr'd the Lay of the Cup? Priests of mar-

riage? who reſtored the Maſs in Queen *Maries* days before any reconciliation made with *Rome*? but the Eccleſiaſticks of this Kingdome under the Prince for the time being, who commanded or connived at it.

## CHAP. VI.

### *How the Kings of* England *proceeded in their ſeparation from* Rome.

1. IT being by what is already ſaid undoubted, the Clergy called together by the Prince, or meeting by his allowance, have ever had a power of reforming this Church, commanding things *juris poſitivi* in it, and likewiſe diſpenſing with them, and that the ſtatute 24. *Hen.* 8. *cap.* 12. that ſaith in effect as much, is no other than a declaration of the Common law, that is the cuſtom of the realm; the next enquiry will be, for acquitting the Church of *England* in point of ſchiſm, how this ſeparation from *Rome* was made.

2. *Henry* the 8. having long purſued a cauſe Matrimonial with *Clement* the 7. who ſhewed ſo much complyance to determine it in his favour, as he ſent Cardinal *Campeius* hither to joyn with *Wolſey* the Kings creature in the buſineſs, and upon the Emperours ſucceſs in *Italy*, the cauſe, after many delays, being revoked to *Rome*, the King, upon the opinions of many forreign Divines of the invalidity of his marriage with Queen *Katharine*, cauſed the caſe to be determined by the *Engliſh* Church: whiche judgment yet he would have in ſome meaſure ſubmitted to the Court of *Rome*, ſo as he might have given the perſons to whom it was delegated by the Pope full information, and the

Cardinals of the Imperial faction excluded having any part in the deciſion. But *Clement* hearing what had paſt in *England*, with more than ordinary haſte determins the cauſe againſt him: which how much it would irritate any Prince of ſo great power, and ſo high a ſpirit as our *Henry*, I ſhall leave others to judge. And here I might alledge many forreign examples, of thoſe who upon leſs indignities have ſtopt all entercourſe with *Rome*, as * *Lewis* the 12. and *Henry* the 2. of *France*, if I had undertook to write an apology for him.

3. The King, upon the advertiſement of theſe proceedings by the Pope, which was at the beginning of the year 1534. falls firſt to thoſe courſes his anceſtors had formerly done, when they had occaſion to know how they ought to comport themſelves in any thing towards *Rome*, which was to have the adviſe of the *Engliſh* Church; and thereupon wrote to the Univerſities, great Monaſteries and Churches of the Kingdom, and the 18 *May* 1535 to the Univerſity of *Oxford*, * *requiring them, like men of virtue and profound literature, to diligently intreat, examine, and diſcuſs a certain queſtion, viz.* An Romanus Epiſcopus habeat majorem aliquam juriſdictionem ſibi collatam in ſacra Scriptura in hoc regno Angliæ, quam alius quivis externus Epiſcopus; *and to return their opinion in writing under their common ſeal, according to the meer and ſincere truth of the ſame*, &c. To which, after mature deliberation, and examination not only of the places of holy Scripture, but of the beſt interpreters, for many days, they returned anſwer the 27. *June* 1534. (without all peradventure according to the ancient tenet of the *Engliſh*) Romanum *Epiſcopum majorem aliquam juriſdictionem non habere ſibi à Deo collatam in ſacra Scriptura in hoc regno* Angliæ, *quam alium quemvis externum Epiſcopum.* Of this anſwer I have thought fit to make particular mention, (though aſſented to by all the *Engliſh* Clergy) becauſe *Oxford* hath been ever

* *Whoſe coin is yet extant, having on one ſide but pifture and an Inſcription ſhewing him to be King of France and Naples, on the other the Arms of France, & theſe words,* Pertant Babylonis nomen. *Thuanus lib. 1. p. 11. c.*

* *In Archivis Oxon. ad Annum* 1534. *p.* 127, *&c.*

ever [a] held *æmula Pariſienſis, Eccleſiæ fundamentum*, [b] *Fountain & Mere de noſtre foy Chreſtiene*, as I formerly touched: whoſe opinion the *Engliſh* Church hath therefore highly eſteemed, and ſought on all occaſions of this nature; of which to give ſome examples.

[a] Mat. Paris *Anno* 1252. *p.* 859. 3 & *Anno* 1257. *p.* 945, 28.

[b] *Rot. Parl.* 1. *Hen.* 6. *n.* 43.

4. Upon the election of *Urban* the 6. *France, Scotland, Flanders*, and divers other parts adhering to *Clement*, who reſided at *Avignon*, [c] the *French* King 1395. cauſed a meeting of the Clergy of his dominions, to ſearch whether had the better right to the Papacy: whoſe judgement was for *Clement*; which under the ſeal of the Univerſity of *Paris* was ſent to *Richard* the 2. who thereupon *fecit convocationem* Oxoniæ *de peritioribus Theologis tam regentibus quam non regentibus totius regni*, and they on the contrary judged *Urban* to have the better title; whoſe opinion under the ſeal of the Univerſity of *Oxford* returned to the King was by him tranſmitted into *France*. 1408, [d] *in Concilio Cleri celebrato* Londoniis *aſſiſtentibus doctoribus Univerſitatum* Cantabrigiæ & Oxoniæ, *tractatum eſt de cenſu & obedientia Papæ ſubtrahendis vel non ſubtrahendis*: about which time twelve of the Univerſity of *Oxford*, on the Arch-Biſhops deſire, in the name of the reſt examined the books & Doctrines of *Wickliffe*, & ſent their reſolutions to a Synod at *London* in an epiſtle yet [e] extant. By all which it is manifeſt, how much their opinions were eſteemed in this Kingdom. And I hold it undoubted, a Prince following ſo great adviſe, chalked out to him by the practice of his anceſtors, could not be guilty of ſo heinous a crime as ſchiſm, ariſing only from diſobedience to any ſpiritual ſuperior whatſoever. [f] *Gerſon* ſays, a private perſon runs into no contempt of the Ke s in divers caſes by him enumerated; as one, *dum dicit aliquis juriſtarum vel theologorum juxta conſcientiam ſuam, quod hujuſmodi ſententiæ non ſunt timendæ vel tenendæ, & hoc præſertim ſi obſervetur informatio ſeu cautela debita, ne ſequatur ſcandalum puſillorum, qui æſtimem*

[c] Hen Knighton *col* 2671, 24. *col.* 1642, 23.

[d] Walſing. *Hiſt. Anno* 1408 *p.* 420, &c.

[e] *In faſciculo Zizaniorum MS. in bibliotheca Archiepiſcopi Armachani.*

[f] *Circa materiam excommunicationum reſolutio, conſiderat.* 11. *to.* 2. *col.* 349. 2. *Ed. Paris* 1606.

*mant Papam eſſe unum Deum:* And *Navar*, the greateſt Canoniſt of his time, [g] *qui unius doctoris eruditione ac animi pietate celebris auctoritate ductus fecerit, aliquid excuſatur, etiamſi forte id non eſſet juſtum, & alii contrarium tenerent.* And to this purpoſe many more Doctors may be alledged.

g Navar. *cap. cum contingat de Reſcript. remed.* 2 n 30. *to.* 2. *editionis Colon. Anno* 1616. *p.* 59. *col.* 1. *ſect. nono.*

5. This as it was done by him, ſo he was led unto it by the example of his predeceſſors, as I have partly toucht before; and ſhall therefore alledge no other, but that in the diſputes between *Becket* and *Henry* the 2. the Arch-Biſhop endeavouring to intereſs *Alexander* the 3. in the difference, that Prince [h] cauſed it to be written unto him, *Si juri veſtro vel honori præjudicatur in aliquo, id ſi totius Eccleſiæ regni ſui conſilio correcturum in proximo pollicetur:* and a little after, [i] *Dominus Rex plurimum ſibi juſtificare videtur, cum in omnibus quæ dicta ſunt, Eccleſiæ regni ſui conſilio ſimul & judicio ſe pariturum pollicetur.* And this the often repeating of it not only in a particular letter of the Biſhop of *London*, but of all the Biſhops of the Province of *Canterbury*, both to the [k] Pope and *Becket*, enough aſſure us how undoubted it was in thoſe days, that our Kings following the adviſe of the *Engliſh* Church, did proceed on ſafe grounds for their juſtification in ſuch quarrels.

h Hoveden *Anno* 1166, *fol.* 287. *b.* 41.

i *Ibid fol.* 288 8.

k *Apud* Hoveden *fol.* 292. *b.* 11. 49. 293. *a.* 33.

6. Neither was the opinion returned by theſe Divines ſo differing from the writings of other learned men, as might make them any way guilty of ſchiſm. [l] *Gerſon* ſpeaking of the ſeveral degrees of Divine truths, places for the firſt ſuch as are expreſs in Scripture, ſecondly thoſe that are by evident conſequence deduced from thence, thirdly ſuch as being delivered by *Chriſt*, have been by the conſtant tradition of the Church derived to us, of which he holds this propoſition, *Univerſalis Eccleſia Pontifici Romano ſubjecta ſit*; and adds, *non enim poſſet evidenter aut per conſequentiam pure de fide ex legibus primi generis humana deductione ſubſiſti, &c.* and

l Gerſon *de vita ſpirituali anima corol.* 7. *to.* 3. *col.* 183. *b. c.*

* Cont. *de poteſtate Pontificis ad* Nicolaum Teupolum.

**Contarenus*, in a ſmall tract *de poteſtate Pontificis*, of that queſtion ſays, *An Auctoritas illa & poteſtas, qua Pontifex maximus fungitur, ſit ei conſenſu quodam hominis tributa, an potius divinitus tradita; qua de re hiſce temporibus maximos tumultus excitatos eſſe perſpicimus, nec etiam veriti ſint viri in omni diſciplinarum genere celebres, ac in Chriſtianæ Theologiæ ſtudio illuſtres, in magno hominum conventu aſſerere, hoc jus Pontificis humanum eſſe*; and then adds that he *ab horum hominum ſententia maxime diſſentire, ac* prope *compertum habere, divinitus conceſſum eſſe Pontifici jus illud*, &c. So that this learned Cardinal was not altogether reſolved in the point, but as a diſputable queſtion had it *prope compertum*. The truth of which I leave him to diſpute with the Oriental Chriſtians. It is manifeſt, [m] *Francis* the firſt was of the contrary judgement; and our Countryman [n] *Stapleton* delivers it as a Catholick *tenet* of former times, (undoubtedly agreeing with that of the *Engliſh* Church) *non divino, ſed humano jure, & poſitivis Eccleſiæ decretis primatum* Romani *Pontificis niti*, &c.

m Sleidan *lib. 9. prope finem.*

n Staplet. *de principiis fidei lib. 13. cap. 15. Sect.* Dixeram.

* *Hen.* viii.

7. But I return to our *King, who now fortifyed by the opinion of the Univerſities, publick diſputations in the Convocation, and ſeveral precedents of former Princes his Predeceſſors, in his Rights, whereas the Parliament before in ſome particulars reſtrained the profits of *Rome*, as in the payments of *Annates*, *Peter-pence*, making *appeals* to it, whoſe beginnings with us I have formerly noted, did [o] the *26. Hen.* 8. 1533. declare *his Majeſty, his Heirs and Succeſſors, Kings of this Real, ſhall have full power and authority from time to time to viſit, repreſs, redreſs*, &c. *all ſuch errors, hereſies, abuſes*, &c. *which by any manner ſpiritual authority or juriſdiction may be lawfully Reformed, Repreſſed, Ordered, Redreſſed*. &c. This the Court of *Rome* interpreted a falling off from the Church, and the *Engliſh* no other than a declaration of that right had ever reſided in the Crown, and which I believe it will be a difficult task to diſprove them in.

o *Stat. 26. Hen. 8. cap. 1. begun the 3. November, & ended the 18. December 1533.*

8. For

8. For those two articles p *Paulus* 3. accuses the King of, as Heretical and Schismatical, viz. *quod* Romanus *Pontifex caput ecclesiæ & Christi Vicarius non erat, & quod ipse in* Anglica *ecclesia supremum caput existeret* &c. for the first, I never heard it affirmed by the King in that generality the words import; for the Pope is a temporal prince, as well as a spiritual father; and so far as I know he never denyed him to be the head of the Church of his own dominions, nor of *France* and *Spain* &c. if those Kingdoms will admit him to so great a prehemminence: the thing he onely stood upon is, that he was not so instituted by Christ Universal Bishop, and had alone from him such an omnipotency of power, as made him absolute Monarch in effect of the universal Church, and was so in *England*. For his being vicar of *Christ* in that sense other Bishops may be said to be his vicegerents, (as q before) I do not see how it can be well denyed him; but that this Vicarship did import the giving him that power he did then exercise here, is what the Church of *England* hath ever constantly denied. As for the Kings being Head of the Church, I have before shewed he neither took it, nor the Parliament gave it, in other sense than the *French* have alwayes attributed it to their Princes: neither for ought I find was it so much sought by King *Henry*, as prest on him by the Clergy, of which the Bishop of *Rochester* was one that subscribed to it; and his Ancestors did the same things before, he did after, under the names of *Protectors*, *Tutors*, * *Christi vicarii*, *Domini Agricolæ*, &c.

p *Bulla Pauli 3. in Bullario dat. 17. Jun. an. 1538.*

q *Cap. 3. n. 72.*

* *Concil.* Spelm p. 437. *cap. 7, 8. Seld. notis ad Badmer. p. 175 7. 17.*

9. For the other particulars mentioned in the Bull, as his beheading the Bishop or Cardinal of *Rochester*, the burning of *Beckets* bones, the taking the treasure and ornaments at his Shrine, to which may be added the suppressing, and converting into Lay hands the Monasteries of the Kingdome, I shall not say much, having not taken on me to defend that Princes actions. Yet for the

taking off the head of *Rochester* (if he were convict of treason) I must give the answer [r] of *Edward* the 3. to the Clergy in that kind, *en droict de Clerks convictz de treason; purceo qe le Roy, & toutz ſes progenitors ount eſta ſeiſis tut temps de faire jugement & execution de Clercz convictz de treſon devers le Roy & ſa Royale Magneſte, come de droict de la corone, ſi eſt avis au Roy, qe la ley en tiel cas ne ſe port changer:* and then he cannot be ſaid to have dyed otherwiſe than by law. As for the goods and ornaments of Churches by him layd hold on, it is certain, his predeceſſors in their extremities had ſhew'd him the way; as the [s] Conquerour, who took all the ready money was found in Religious houſes; [t] *Richard* the firſt, who took all, to the very Chalices of Churches, and yet th' Archbiſhop afterwards [u] *regio munimine ſeptus —— univerſos monachorum* (to wit, *of Christ-Church*) *redditus & oblationes tumbæ beati martyris* Thomæ *fecit ſaiſiari in manu Regis*; [x] and *Edward* the firſt 1296, *fecit omnia regni monaſteria perſcrutari, & pecuniam inventam* Londonias *apportari, fecitque lanas & corias arreſtari*, &c. And in thoſe days Biſhops did tell Kings, [y] *Theſaurus eccleſiæ veſter eſt, nec abſque veſtra conſcientia debuit amoveri*: to which the King, *verum eſt, Theſaurus noſter eſt ad defenſionem terræ contra hoſtes peregrinos* &c. And perhaps it would be no hard labour to ſhew, all Princes, not only here, but elſe where, to have had (how juſtly I will not determine) a like perſwaſion. And he then being excommunicated by *Paulus* 3. for maintaining what the Crown had ever been in poſſeſſion of, can no way be ſaid to have departed from the Church; but the Pope to have injuriouſly proceeded againſt him, who maintained only the juſt rights and liberties of his kingdom, according to his coronation oath.

[r] *Rot. Parl. ſeſt. S. Hillair 25. Ed 3. n. 60. petitions de Clergy.*

[s] Flor. Wigorn. *Anno* 1070.

[t] Neubrigenſis *lib.* 4 *cap.* 38.

[u] Hoveden. *Anno* 1198. *fol.* 444. a 8.

[x] Walſingh. *anno.* 1296. *p.* 29. 24.

[y] Gervas. Dorobern. *col.* 1554, 44.

10. And this is the caſe, and fully anſwers (ſo far as it appears to me) whatſoever can be objected againſt the reformation begun by him, or made more perfect by

*Edward*

*Edward* the 6. for the manner of doing it, viz. *that they, as ſupreme Princes of this Kingdom, had a right to call together their own Clergy, and with their advice, to ſee the Church reformed by them.* And if otherwiſe, I ſhould deſire to know how the *Maſs* without any intermiſſion was reſtored by Queen *Mary*: for it is manifeſt, ſhe returned the uſe of it immediately after her Brothers death, & yet Cardinal *Pool* reconciled not this Kingdom to *Rome* till the 30. of *November* above a year after, and then too * on ſuch conditions only as the Parliament approved; during which ſpace ſhe as Queen gave [a] directions to the Ordinaries how they ſhould carry themſelves in ſeveral particulars; which as it is probable ſhe did by th' advice of her Biſhops, ſo there is no reaſon to condemn the like proceedings in *Edward* the 6.

* *Stat* 1. 2. *P. & Mar. cap.* 8.

[a] *See* Fox, *vol.* 3. *p.* 38.

11. I have before ſhewed how far the royal power went in compiling the book of Common prayer: for a Catechiſm publiſhed by the ſame Prince, it being compoſed by a learned perſon, preſented to his Majeſty, and by him committed to the ſcrutiny of certain Biſhops and other learned men, *quorum judicium* (ſays [b] his Majeſty) *magnum apud nos authoritatem habet*, after their allowance it was by him recommended to be publickly taught in Schools. Likewiſe the Articles for taking away diverſity of opinions in points of religion, were agreed upon in a Synod at *London* by the Biſhops and other learned men, *& Regia authoritate in lucem editi.* The King in framing them taking no farther on himſelf, than he had in the book of Common Prayer. And Queen *Mary*, though ſhe quitted the title of *Head of the Church* (which yet ſhe did not ſo ſuddenly as *Saunders* intimates) did in effect as much. So that hitherto there is no way of fixing any ſchiſm on the *Engliſh* Church, for neglect of obedience, it having been ever ſubject to the Archbiſhop of *Canterbury* and others its lawful ſuperiors, reſtoring to him the ancient right belonged to his Chair, of being

[b] *Literæ ante Catechiſmum directæ omnibus Ludimagiſtris, & iis qui ſcholas grammaticas aperiunt, dat.* 20. *Maii anno regni* 7.

[c] *Cap.* 3. *n.* 80. their ſpiritual Paſtor [c] next and immediately under *Chriſt Jeſus*. But the Kingdom being re-united to the See of *Rome* by Queen *Mary*, though what I have ſaid doth in a good part free it of Schiſm, yet in reſpect the reformation I only took upon me to defend was made by Queen *Elizabeth*, and continued ſince, it will be neceſſary to make ſome more particular mention how it did paſs.

## CHAP. VII.

### *How the Reformation was made under Queen* Elizabeth.

1. ELizabeth, the Daughter of *Henry* the Eighth by Queen *Anne Bolen*, being received by all the eſtates of the Kingdom, (aſſembled in Parliament) and proclaimed Queen, and cauſed her Siſters Ambaſſador, Sir *Edward Kerne*, then reſiding at *Rome*, to give an account of this her being called to the Crown to *Paulus Quartus* the Pope; who being in union with *France*, and out with the houſe of *Auſtria* then ſtrictly joyned with *England*, and both at odds with the *French*, told him, either perſwaded by them, or upon his own heady diſpoſition, [a] England *was a Fee of the Church of* Rome; *That ſhe could not ſucceed, as illegitimate; That he could not go againſt the Declarations of* Clement *the 7. and* Paulus Tertius; *That her aſſuming the name and government without him, was ſo great an audacity, ſhe deſerved not to be hearkned to: But he being willing to proceed paternally, if ſhe would renounce her pretentions, and freely remit her ſelf to his arbitrement, he would do what lay in his power with the Dignity of the Apoſtolick See.* A ſtrange reply to a civil meſſage, were it not derived to us by an unqueſtionable hand, and that it came from

[a] *Hiſt. Council of Trent. Ital. lib. 5. Anno 1558. p. 399. edit. Lond. 1619. & Geneva p. 420.*

from *Paulus quartus* to whom it was not an unusual saying [b] *that he would have no Prince his companion, but all subjects under his foot.* Upon this unwillingness to acknowledge her Queen at *Rome*, th'Arch-Bishop of *York* (who had before [c] affirmed no man could doubt of the justness of her title) and the rest of the Bishops refused to Crown her. As for that [d] some write, *it was because they had evident probabilities she intended either not to take, or not to keep the oath was then to be administred unto her, especially in the particular of not maintaining holy Churches lawes, in respect she had shewed an averseness to some ceremonies, as commanding the Bishop of* Carlile *not to elevate the consecrated Host*, (*who stoutly refused her*) *and out of fear she would refuse in the time of her sacre the solemn divine ceremony of Unction*: these are certainly without any colour, and framed since. For as for the last, the ceremony of anointing, she had it performed; as had King *James* who succeeded her, who [e] would not have his Queen crowned in *Scotland* without it. For the other, it is altogether improbable that he to whom the command was by her given, would of all the rest have assented to crown her, had he conceived that a cause why it might have been denied: neither indeed did she alter any thing material in the service of the Church, till after the conference at *Westminster* 1559. the 31. *March*, and the Parliament ended.

b *Ibid. paulo ante eodem libro.*

c *His speech at the making known Queen Maries death to the Commons, in* Camden, Holinshead, Grafton, & aliis.

d *The defence of the Catholicks against the book stiled* The Execution of Justice in England, *pag.* 51.

e *See* Spotswoods *History of the Church of Scotland*, p. 381.

2. To pass therefore by these, as excuses found out after the deed done, the true reason being (no question) something came from the Pope, in pursuance of that answer he had given her Agent; the Queen seeing she could expect nothing from the Papacy, laboured to make all safe at home, or, to use her own phrase, *to take care of her own house*; and therefore (as she had reason) desired to be assured of her subjects fidelity, by propounding an oath to certain of them, (which is seldome a tie to other than honest minds.) But the way (mens minds distracted

distracted in points of relation, the f law of *Henry* the 8. (extinguiſhing the auctority of the Biſhop of *Rome*) being very ſevere, for ſecuring himſelf. In bringing ſuch as did but extol the ſaid auctority, for the firſt offence, within the compaſs of a *præmunire*, and that refuſed to take it, of treaſon, was not eaſy to be pitcht upon: beſides ſtyling the King *head of the Church*, which many made a ſcruple at; to g which effect a bill being preſented to the houſe of Commons the 9. of *February*, after many arguments had upon it, the 13. of *February* upon the ſecond reading it was abſolutely daſht, and upon great conſidereation taken the 14. *Febr.* a Committee appointed to draw a new Bill, in which an eſpecial care was taken for reſtoring only the ancient juriſdiction of the Crown, and the Queen neither ſtyled *Supreme Head*, nor the penalty of refuſing the Oath other, than the being excluded from ſuch places of honour and profit as they held in the Common-wealth: yet with this *proviſo*, that he who had an eſtate of inheritance in a temporal office, & refuſed to take the ſame oath, did after upon better perſwaſion conform himſelf, ſhould be reſtored unto the ſaid eſtate; and that ſuch as ſhould maintain or defend the auctority, preheminence, power or juriſdiction, ſpiritual or eccleſiaſtical, of any forreign Prince, Prelate, Perſon, State or Potentate whatſoever (not naming the Pope, as her father had done) ſhould be three times convict before he ſuffered the pains of death.

f *Stat.* 28. *Hen.* the 8. *cap.* 10.

g *Journ. des Loes* 1. *Eliz.*

3. This Bill, which no doubt the Popes carriage drew on, being expedited in the houſe of Commons, received reformation by the Lords, committed the 13. *March* to the Lord Marqueſs of *Wincheſter*, Lord Treaſurer, the Duke of *Norfolk*, the Earls of *Weſtmorland*, *Shrewsbury*, *Rutland*, *Suſſex*, *Penbrook*, viſcount *Mountague*; Biſhops, *Exeter*, *Carliſle*; Barons, *Clynton* Admiral, *Morley*, *Rich*, *Willoughby*, *North*, no one of them then noted for Proteſtantiſm the 18. *March* paſt the Lords, none diſſenting but

but 8. Biſhops, the Earl of *Shrewsbury* Viſcount *Mountague*, and the Abbot of *Weſtminſter*: and the ſame day ſent to the houſe of Commons, who upon peruſal found again what to amend it in; ſo as it had not it's perfection in both Houſes till Saturday the 6. of *May* (when the Parliament ended the Monday following) at which time only Viſcount *Mountague* & the intereſſed Clergy oppoſed it. By which it cannot be queſtioned, but the generality of the Lords did interpret that law, no other than, as indeed it was, a reſtoring the Crown to it's ancient rights; for if otherwiſe, without doubt there would have been as great an oppoſition at leaſt made againſt it, as ſome other ſtatutes which paſt that Parliament met with, that the Marqueſs of *Winchester*, the Lords *Morley*, *Stafford*, *Dudley*, *Wharton*, *Rich*, *North*, joyned with the Earls of *Shrewsbury*, Viſcount *Mountague*, and the Prelats, to have ſtopt.

4. But whereas ſome were induced to think by the generality of the words, that affirm her Highneſs to be *ſupreme governour as well in all ſpiritual or eccleſiaſtical cauſes as temporal*, as if it had been an uſurping upon the ſacred function in the interior (as I may ſay) of the Church, properly belonging to them in holy Orders, her Majeſty the ſame year [h] did declare, *She did not challenge any other authority than was challenged and lately uſed by King* Henry *the* 8. *and* Edw. *6. which is, and was of ancient time due to th' imperial crown of this Realm; that is, under God to have the Soveraignty and rule over all manner of perſons born within theſe her realms*, &c. And that to be the only ſenſe of the Oath ſhe cauſed to be confirmed the next [i] Parliament; at which time a Synod being held, *for avoiding diverſity of opinions, and eſtabliſhing of conſent touching true religion* &c. it did expreſly declare; [k] they did not give to our Princes the miniſtring either of Gods Word or the Sacraments, —— *But that only prerogative is given in holy Scripture by God himſelf, that*

h *The Admonition in* Injunctions 1 *Eliz.*

i 5 *Eliz. cap.* 1.

k *Art.* 37.

*is, that they ſhould rule all eſtates and degrees committed to their charge by God, whether they be eccleſiaſtical or temporal, and reſtrain with the civil ſword the ſtubborn and evil-doers*, &c. And theſe articles were likewiſe confirmed by Parliament 13. *Eliz.* cap. 12. ſo that no man can doubt this to have been other than an acknowledgement, what Princes had done formerly in all ages might be juſtly continued; not an introductory of a new law, but the aſſertion of the old right of our Kings.

5. Another matter of great weight then likewiſe expedited was, the ſettling the publick ſervice of the Church in one uniform way. King *Edward* the 6. intending ſuch a reformation as might ſerve for edification, cauſed certain pious and learned men to meet together, who (as it ſeems) taking for their pattern the practice of the primitive times, caſting out of the Liturgies then uſed ſuch particulars as were any way offenſive, ſhew'd their ſcope to be, what they pretended, to reform, not make a new Church or ſervice; and thereupon had, *by the aid of the holy Ghoſt*, (1 as the Act of Parliament ſpeaks) concluded on, and publiſht the *book of Common prayer*, with a form of *adminiſtration of the holy Communion, commonly called the Maſs*. But nothing humane is perfect at firſt: this Book ſome few years after received in his time alteration, and the word *Maſs* (I know not why more offenſive in it than the m *Auguſtane* Confeſſion) expunged, with ſome other phraſes in it.

1 *Stat.* 2. & 3. *Ed.* 6. *cap.* 1.

m *Cap. de Miſſa. Retinetur Miſſa apud nos, & ſumma reverentia celebratur.*

6. But for the better underſtanding how Queen *Elizabeth* found this Church, it will not be amiſs to look a little back. *Henry* the 8. dying in *January* 154⅞, leaving the *Roman* Service, with ſome alterations not greatly conſiderable in it, the wiſdom of the State (however intending a farther reformation) was not immediately to aboliſh it; ſo as the Lords meeting in Parliament 1547. *November* the 4. though they had the Maſs ſung in *Engliſh*, yet the Liturgy of the Church was not common in that language.

language till after *Easter* 1548. This Session continuing till *December* 23. restored the Communion in both kinds, upon which certain learned men by appointment met at *Windsor*, to consider of a decent Form for the administration of it, which in *March* his Majesty gave out backt with a Proclamation, so as at *Easter* it began (without compulsion of any,) to be put in practice, and after *Easter*, several parochial Churches to celebrate divine Service in *English*, which at *Whitsuntide* was by command introduced into *Paul's*; but hitherto no book of Common prayer extant, only the manner of administring the holy Eucharist somewhat altered.

7. During this while, the Arch-Bishop of *Cant.* 6. Bishops, 3. Deans Doctors, and 3. other only Doctors, were busied in reforming the publick Liturgy of the Church *John Calvin* of *Geneva*, a person then of high esteem, advertised of it, thereupon wrote to the Duke of *Somerset* the 22. *October* 1548. giving his judgement in those words [*quod ad formulam precum & rituum ecclesiasticorum, valde probo si certa illa extet, a qua posteriores discedere in functione sua non liceat, tam ut consulatur quorundam simplicitati & imperitiæ, quam ut certius ita constet omnium inter se ecclesiarum consensus, postremo etiam ut obviam eatur desultoriæ quorundam levitati qui novationes quasdam affectant.*] and taking notice of the form already had for celebrating the Communion, adds this, *Audio reituri isthic in Cœna celebratione orationem pro defunctis, neque vero hæc ad purgatorii Papistici approbationem referri satis scio, neque etiam me latet proferri posse antiquum ritum mentionis defunctorum faciendæ, ut eo modo communio fidelium omnium in unum corpus conjunctorum declaretur, sed obstat invidium illud argumentum, nempe Cœnam Domini adeo sanctissimam esse, ut nullis hominum additamentis eam conspurcari sit nefas.* a John Calvin. *Epist.* 87.

8. This Letter received about the *beginning of the Parliament, which to be 4. November: which I conceive erroneus, as not at all agreeing with the Journal.

* Note, the printed book of statutes is, as if their meeting

Parliament, which met the 24. of *November* 1548. may have been the cauſe of deferring the exhibition of it to the Houſe of Commons till the 19. *December* 1548. when the conſideration of it was referred to *Sr. Thomas Smith*, his Majeſties Secretary, and a very learned Knight, who returned it back again the 19. *January*, having kept it by him a full month; after which it was expedited and printed in *March* following, and the 6. of *April* 1549. the Maſs by Proclamation removed. But this book was not ſo perfect, as it yielded no exceptions, whether juſt or not I ſhall not hear examine, I know learned men have judged variouſly: it ſhall ſuffice me to ſay, it was again reviſed by *Bucer* (a great Patron of Diſcipline, and Martyr, both in *England*,) and reprinted 1552. and to ought in or of this ſecond edition during King *Edwards* reign I have not heard any Proteſtant did ever except.

9. In Queen *Maries* time divers learned men retired from the heat of Perſecution, and by the favour of the Magiſtrate permitted a Church 1554. at *Frankford*, laboured to retain this Liturgy; whom *Knox*, *Whittingham*, and ſome others oppoſed ſo far, as one *Haddon* deſired to be their Paſtor, excuſed himſelf, and Mr. *Chambers* coming for that end from *Zurick*, finding it would not be allowed, retired back again, and xvi. learned men then at *Strasburgh* (amongſt which this *Haddon*, *Sandis* afterward Arch-Biſhop of *York*, *Grindal* of *Canterbury*, *Chriſtopher Goodman* famous for his book of Obedience) remonſtrated unto them, *That by much altering the ſaid book they ſhould ſeem to condemn the framers, now ready with the price of their blood to confirm it, ſhould give their adverſaries occaſion to accuſe their doctrine of imperfection, themſelves of mutability, and the Godly to doubt of what they had been perſwaded; that the uſe of it permitted they would joyn with them by the firſt of* February: their Letter bearing date the 23. of *November* 1554.

*Troubles at Frankford p.* xxii.

10. But nothing could move them to be like Saint *Paul*,

*Paul*, all things to all that he might gain ſome, or relent any thing of their former rigour; only a Type of it drawn into Latine was ſent to *Calvin* for his judgement, who returned an anſwer the 18. *January* 155⅞. ſomewhat reſembling the *Delphick* oracles, *That the book did not contain the purity was to be wiſht; that there were in it* ineptias, *yet* toletabiles; *that as he would not have them be* ultra modum rigidos, *ſo he did admoniſh others* ne ſibi in ſua inſcitia nimis placeant, *&c.* And here I cannot deny to have ſometimes wondred, why in theſe diſputes the opinion of *Peter Martyr*, then at *Strasburgh*, a perſon for learning no leſs eminent, was never required: but I have ſince heard him to have been always a profeſt patron of it, as one by whoſe care and privity it had been reformed. 1 *Corinth.* ix. 22. *Epiſt.* 200.

11. Whilſt matters went thus in *Germany*, certain learned men at *Geneva* were compoſing a Form for the uſe of the *Engliſh* Church there, which 1556. was printed by *Criſpin*, with this Title.

*Ratio & forma publice orandi Deum atque adminiſtrandi Sacramenta &c. in Anglorum eccleſiam, quæ Genevæ colligitur, recepta, cum judicio & comprobatione* D. Johannis Calvini.

But this did not ſatisfy all, for Mr. *Lever* coming to *Frankford* to be their Miniſter, requeſted they would truſt him to uſe ſuch an order as ſhould be godly, yet without any reſpect to the book of *Geneva* or any other. But his endeavours were ſoon rejected, as not fit for a right reformed Church, and the book it ſelf hath received ſince ſundry changes from that firſt type.

12. In this poſture Queen *Elizabeth* found the Church, the Proteſtant party abroad oppoſing the book of Common prayer, few, varying in judgement, not at unity with themſelves, nor well agreeing what they would ſubmit unto: She hereupon cauſed it to be again reviſed by certain moderate and learned men, who took a

great care for removing all things really lyable to exception; and therefore where *Henry* the 8. had cauſed to be inſerted into the Litany, *to be delivered from the Tyranny of the Biſhop of Rome and all his deteſtable enormities*, which remained all King *Edwards* time, this, as what might give offence to that party, was thought fit to be ſtrook out; and where in the delivery of the Euchariſt the firſt book of *Ed.* the 6. had only this clauſe, [n] *The body of our Lord* Jeſus Chriſt *which was given for thee perſerve thy body and ſoul unto everlaſting life*, and at the giving of the Cup no other than, *The blood of our Lord* Jeſus Chriſt *which was ſhed for thee preſerve thy body and ſoul unto everlaſting life*, and the ſecond book which was in force at his death had removed thoſe two clauſes, and inſtead of them inſerted *Take and eat this in remembrance that* Chriſt *dyed for thee, and feed on him in thy heart by faith with thankſgiving*, and accordingly at the delivery of the Cup, from whence ſome might, and perhaps did infer the faithful Receiver not to have a real communication of Chriſts body, in taking the Sacrament, but only a remembrance of his ſufferings; it was not thought fit both expreſſions ſhould be retained, that no man might have any juſt cauſe of ſcandal: for be *Chriſts* preſence never ſo real, even by *Tranſubſtantiation*, in the holy Sacrament, we may upon [o] Saint *Pauls* warrant do it in remembrance of him.

[n] *The firſt book of Ed. 6. fol.* 130. b.

[o] 1 *Cor.* xi. 24, 25.

Thus at the firſt of her reign matters in religion paſt with ſo great moderation, as it is not to be denyed very few, or none, of the *Romiſh* inclination (if they did at any time go to Maſs,) refuſed to be preſent in our Churches during the time of divine Service.

But of another thing that likewiſe paſt at the ſame time, it will be neceſſary to make ſome more particular mention.

CHAP.

## CHAP. VIII.

### How Queen Elizabeth ſettled in this Kingdom the proceeding againſt Hereticks.

ANother particular, no ſmall argument of the Queens diſpoſition, fell into conſideration this Parliament. Her [a] Siſter had revived all the laws of former Princes againſt Hereticks, even that [b] of *Hen.* the 4. which her Father had on weighty conſiderations repealed, and all proceedings againſt them, till they came to their very execution, pertaining to the Eccleſiaſtick: how to find a means to preſerve her ſubjects, and yet not leave a licenſe to every old hereſiy, new invention, fanatick ſpirit, to ruffle the Church and trouble the world, was a matter of no ſmall difficulty. But for the better underſtanding of what then paſt, it will be requiſite to conſider, how the condemning of Hereſy and proceeding againſt Hereticks hath been, both here and elſewhere, how her Majeſty found it abroad in the Chriſtian world, and at home, how thereupon ſhe ſettled it.

a 1. 2. P. M. cap. 6.

b 2. Hen. 4. cap. 15. repealed 25. H. 8. cap. 14.

2. The words *Hereſy* and *Heretick* were in the primitive Church not always of ſo ill a ſound as theſe later Ages have made them. [c] *St Auguſtine* doth name ſome opinions for heretical have ſmall affinity with Divinity; and who ſhall read [d] *Philaſtrius* of Hereſies, muſt needs approve [e] Cardinal *Bellarmin*'s cenſure of him, that he accounts among them many are not properly Hereſies, as the word is now taken. The firſt Council * of *Conſtantinople* held 381. expreſly affirms by the name of Heretick to underſtand ſuch as profeſſing the ſame faith, yet did make a ſeparation from thoſe

c De Hereticis cap. 63.

d To. 4. bibliothec. patrum cap. 54. 82.

e De Scriptoribus.

* Concil. Gen. Rom. tom. 1. p. 88. cap. 6.

thoſe canonical Biſhops were of their communion. But the conſtruction what opinion was heretical, did ever, ſo far as I have obſerved, belong to the ſpiritual Magiſtrate, who, after the pattern held out in f holy Writ, if any new erroneous opinion did peep, the neighbour Biſhops and Clergy taking notice of it, did aſſemble, condemn it, and by their letters gave notice of what had paſt them to abſent Churches: if the caſe were difficult, the preſence of any famous Clerk was deſired, who for ſettling peace (as who would not) was eaſily drawn out of his own home; ſo was g *Origen* ſent for into *Arabia*. And that this form continued in condemning Hereſy till *Conſtantine*, ſeems to be very plain by the h proceedings againſt *Paulus Samoſatenus*, and divers others, remaining yet in hiſtory, and the writings of the fathers. But for the proſecution of an Heretick farther than to avoid him, I know no example, till after God having given peace to his people under Chriſtian Emperours, they i finding, if the Church were in trouble, the State to be ſeldom otherwiſe, did provide as well for the calling of Biſhops to Councils that might condemn Hereſies, as by laws to puniſh Hereticks.

f Acts xv.

g Euſeb. *lib.* 6. *cap.* λζ'. *al.* 30.

h Euſeb. *lib.* 7. *cap.* κζ'. *&c. ad cap.* κ'. *al. cap.* 22, 23, 24.

i Euſeb *lib.* 10. *cap.* 7. *Socrat. proem. lib.* 5. *vide epiſt. Theodoſii Cyrillo apud* Baron. *to.* 5. *Anno* 430. *n.* 64.

3. The Council of *Nice* therefore having in the year 325. cenſured the opinions of *Arius* for heretical, the Emperour that had formerly granted priviledges to Chriſtians 326, declared k *hæreticos atque ſchiſmaticos his privilegiis alienos* &c. and that no man might be deceived by the ambiguity of the word *Heretick*, l *Gratian* and *Theodoſius* in the year 380. did declare who only were to be ſo reputed, *viz.* all who *ſecundum Apoſtolicam diſciplinam evangelicamque doctrinam patris & filii & ſpiritus ſancti unam deitatem ſub parili majeſtate & ſanctâ trinitate credamus, hanc legem ſequentes, Chriſtianorum Catholicorum nomen jubemus amplecti, reliquos vero dementes veſanoſque judicantes hæretici dogmatis infamiam ſuſtinere*: and the year following did not only in

k *Codex Theodoſ. lib.* 16. *de* Hæreticis *leg.* 1. *Vide* Euſeb. *de vita* Conſtantii *cap.* 61, 62. *lib.* 3.

l *Cod Theod. lib.* 16. *de* Fide Catholica *leg.* 2.

in *January* [m] renew the ſaid Edict, but in *July* [n] commanded all Churches to be delivered thoſe Biſhops who held that profeſſion, *nihil diſſonum profana diviſione facientes, ſed Trinitatis ordinem, perſonarum aſſertionem, divinitatis ordinem* &c. and for the more aſſurance, as a mark of their being orthodox, * did hold communion with the Catholick Biſhops of any one ſeat there remembred, as *Damaſus* of *Rome*, *Nectarius* of *Conſtantinople*, *Pelagius* of *Laodicea*, *Diodorus* of *Tarſus*, *Optimus* of *Antioch*, &c. *omnes autem qui ab eorum quos commemoratio ſpecialis expreſſit fide communionis diſſentiunt, ut manifeſtos hæreticos ab eccleſiis expelli.* Which note [o] *Juſtinian* likewiſe in the year 541. having preſcribed, goes farther, that *ſacram communionem in Catholica eccleſia non percipientes à Deo amabilibus ſacerdotibus, hæreticos juſte vocamus.*

m *Ibid.* de Hæretic. *leg.* 6.

n *Ibid.* de fide Catholica, *leg.* 3 & 2.

* *Ibid. leg.* 2, 3. *Annis.* 380, 381. & *ibid.* de his qui religione contendunt, *leg.* 6.

o *Novel. Conſtit.* 109. *in præfat.*

4. Before theſe laws, it is not to be wondred if every one deſired to be joyned in communion with ſome one of thoſe ſeats, whoſe Biſhops were ſo recommended, for conſerving the Apoſtolick faith, for the ſanctity of their manners, and for keeping ſchiſm out of the Church; which being uſually joyned with ſedition in the Common-wealth, [p] Princes ſeem to have an eſpecial eye how it might be avoided, but after theſe Edicts they certainly did it much more: and there being in the world no Biſhop more famous than the *Roman*, nor any other named in theſe parts of *Europe* than he, every one endeavoured to live united to that Church; whoſe form the Council of *Nice* 325, (for before that, * *ad* Romanam *eccleſiam parvus habebatur reſpectu*, as *Pius ſecundus* writes) approving in diſtribution of the eccleſiaſtick Government, and Emperours now in point of belief, the *Roman* Chair became ſo eminent, as, for to ſhew themſelves orthodox, many, eſpecially of the *Latins*, did hold it enough to live in the communion of that See; and the Fathers in that Age to give high expreſſions of being in

p *Cod. Theod. lib.* 16. de his qui religione contendunt, *leg.* 3.

* Ænez Sil. vii *Epiſt.* 301. *in edit. Lugduni* 1505. *at* Bellarmine *Epiſt.* 288.

union with it. * S. *Ambroſe* ſhewing the devotion of his brother *Satyrus* in a tempeſt, adds yet farther as a mark of it, *Advocavit ad ſe Epiſcopum—— percontatuſque ex eo eſt utrumnam cum epiſcopis catholicis, hoc eſt cum* Romana *eccleſia, conveniret:* and S. * *Hierom*, a perſon very ſuperlative in praiſing and reprehending, writing about the ſame time to *Damaſus*, *Ego nullum primum niſi Chriſtum ſequens, Beatitudini tuæ, id eſt cathedræ* Petri *communione conſocior*, &c. and in the year 602. a certain Biſhop returning out of ſchiſm *ſpontanea voluntate* did ſwear, * he *in unitate ſanctæ eccleſiæ catholicæ, & communione* Romani *Pontificis, per omnia permanſurum*, &c. All which in time bred an opinion, that Chair could not entertain an error, and the beginning of the mark abſolutely inverted; for thoſe men who at firſt were, as others, ſought unto *q* becauſe they did conſerve the Religion St. *Peter* had planted in *Rome*, muſt in after-ages be only held to maintain the ſame doctrine, becauſe they are in that See; ſo that the Doctrine did not commend the perſon, but the being in that ſeat, and recommended from thence, be it what it will, it ought to be received: in ſo much as *r* Cardinal *Bellarmine* doubts not to write, *Si Papa erraret præcipiendo vitia vel prohibendo virtutes, teneretur eccleſia credere vitia eſſe bona & virtutes malas, niſi vellet contra conſcientiam peccare:* for which he was *ſ* afterwards forced to an Apology; yet is not in my opinion ſo abſurd as the *t* rule left by certain religious perſons 1606. to their Confidents at *Padoua*, containing *ut ipſi Eccleſiæ catholicæ* (underſtanding the Pope) *omnino unanimes conformeſque ſimus: ſi, quod oculis noſtris apparet album, nigrum illa eſſe definierit, debemus itidem quod nigrum ſit pronunciare* &c.

* Ambroſ. Oratio de obitu fratris.

* Hieron. ad Damaſum Epiſt.

* Gregor. lib. 10. epiſt. 33.

q Conf. Theodoſ. lib. 16. de fide Catholica leg. 2.

r De Romano Pontif. lib. 4. cap. 5. Sect. Quod autem.

ſ Recognit. pag. 19. edit. 1608. Ingolſtat.

t Regul. 13.

5. But to return whence I have a little digreſs'd: it being plain by theſe laws, the Emperours reſtrained points of Hereſy to the Catholick Doctrine of the Father,

*Father*, *Son*, and *Holy Ghost*, the ground of the four first general Councils; and others not to be esteemed Hereticks: in which sense I conceive sundry of the antients take the word; as [u] S. *Hierom*, when he says, *all Hereticks leave God*; and *Socrates*, when he agrees such as [x] condemned *Origen*, *finding not to blame his opinion of the holy Trinity, must confess he held the right faith*: and *Leo* the first, when in an Epistle about 449. he exhorts the Emperour *Theodosius* to consider the glory of S. *Peter*, the Crowns of the Apostles, *cunctorumque Martyrum palmas, quibus alia non fuit causa patiendi, nisi confessio veræ divinitatis, & veræ humanitatis in* Christo, doth intimate the true Faith to be contained in that profession. After these restrictions in the declaration of Heresie, it is likely divers Sects grew very audacious, either conceiving themselves without the compass of Law, or trusting in their friends and numbers; insomuch as *Arcadius*, *Theodosius*, and *Valentinian*, in the year 395. were forced to declare, [y] *Hæreticorum nomine continentur, & latis adversus eos sanctionibus debent subcumbere, qui vel levi argumento judicio Catholicæ Religionis & tramite detecti fuerint deviare*: which [z] St. *Augustine* explains, *eos utique hæreticos appellant, qui non sunt communionis eorum*, as the Council of *Constantinople* had before, taking the word in a larger sense than others had done. Upon which the *Donatists*, that were the most [a] furious, so as neither the person nor goods of Catholicks that dwelt amongst them were safe, are more [b] severely censured in them, than others, whose opinions were certainly more dangerous, yet whom Emperours did think worthy of more favour.

6. But whilst Princes did thus by their Laws only correct Hereticks, and the temporal Magistrate execute their commands, they did rarely think fit to proceed

u Hier. in Jerem. 19.

x Ibid. in Christum. Socrates lib. 6. cap. 17. al. 18.

y Cod. Theodos. lib. 16. leg. 28. de Hæret.

z August. in Psal. 37. tract.

a Ibid. leg. 38. vide August. epist. 68. & to 7. contra lit. Petil. cap. 83.

b Cod. Theodos. de Hæret. lib. 16 leg. 37, 38, 39, 40, 52, 55, 65.

* *I cannot but with the learned* Weſembechius *(in Cod. lib. 1. Tit. 5. de Hæreticis &c.) underſtand thoſe words, Manichæos de civitatibus pellendis & ultimo ſupplicio tradendis, not to be meant of taking away their lives; though I am not ignorant* Celſus *the lawyer ſo interprets* ultimum ſupplicium *ff. de pœnis leg. 21. for to what uſe were the baniſhing them the City, if they were to be inſtantly executed? and that law being taken out of* Cod. Theodoſ. leg 65. de Hæret. *where thoſe words are altogether omitted, I conceive* Juſtinian *intended by them no other but thoſe* Capitales pœnæ *that were* morti proximæ, *or* metalli coercitio, in inſulam deportatio, *&c. ff.* de pœnis *leg. 28. The like may ſerve for anſwer to thoſe other Reſcripts in* Cod. Theodoſ. *de Hæret. leg. 9. 36. It is manifeſt by many places of St.* Auguſtine, *as To. 7* contra lit. Petiliani, lib. 2. cap. 86. *that there was no law during his time againſt the life of an Heretick; and* Bellarmin *himſelf confeſſeth as much,* de laicis *cap. 21. Sect.* Auguſtinus. *But however the matter is not great, being only againſt ſome particular Hereticks, whoſe deportments may be thought to have been ſeditious as well as their Conſcience erroneous.* c *De Hæret. leg. 8. Cod. Juſtin.* d *Epiſt. 127. & Retract. lib. 2. cap. 5.* e Proſper *in Chronico An. 392.* f *To. 4. Anno 386. n. 23. Vide* Johan. Royas *ſingular. 107. n. 6. Directorium Inquiſitor. 2. part. cap. 27. p. 131. col. 1. par. 3. queſt. 102. p. 702. col. 2. edit. Roma 1585. vide* formulas, *&c. ad finem* praxis judiciariæ Inquiſit. *p. 524. & p. 526.* g *Directo. part. 3. in queſt. 36.* Franc. Pegn. *comment. 85. p. 608. col. 2.* Johan. a Royas *ſingular. 107. n. 2. vide part. 2. n. 450.*

* to bloud, unleſs perhaps c againſt ſome ſeditious preacher; and the holy men of thoſe times uſed earneſt perſuaſions to deter any inclined to that ſeverity, as not eſteeming it to agree with the entire charity of a Chriſtian. S. *Auguſtine*, whoſe labours no man equalled to preſerve the Church from that contagion, when *Donatus* the Proconſul of *Africa* went farther than that holy man liked in that kind, d profeſſeth he had rather be himſelf ſlain by them, than by detecting the *Donatiſts* be any cauſe they ſhould undergo the puniſhment of death. St. *Proſper* e remembers four Biſhops to have been excommunicated 392. for being accuſers of *Priſcilian* (the firſt I have read of had his opinions confuted not by Syllogiſms but ſteel.) From whence f *Baronius* conceives it proceeds, that ſuch as deliver an Heretick to the Secular for execution, to this day, effectually intercede he may not be puniſht with death; yet, as it were to mock God and delude the world, if the Lay having him in his power, ſhall defer the doing it more than ordinary, g it is the conſtant tenet of the Canoniſts, relying on a Bull of *Alexander* the 4. 1260. he is to be compel'd unto it by ſpiritual cenſures, yet may not take any cognizance of the cauſe at all.

7. It being then the courſe in the primitive times, that in the proceedings againſt Hereticks, the Eccleſiaſtick

ſtick did conclude what * *Tenets* were Hereſie, and the Temporal whether the party accuſed were guilty of the imputation, and likewiſe of his puniſhment (as is manifeſt by Imperial conſtitutions, the writings of the Ancient Doctors, the cuſtom of the Catholick Church, that never prayed againſt Hereticks, but Hereſie) did ſo remain at leaſt 800 years after Chriſt: but about that time the diviſion of the Empire falling out, and Epiſcopal Conſiſtories eſtabliſht through *Europe*, Biſhops did begin to claim as matters Eccleſiaſtical, and only proper for their Courts, the acting in thoſe cauſes; which in ſome ſort might be, ſo far as the determination what is Hereſie did extend. And about the year 1000, the Chriſtian world (as branches not bearing fruit in *Chriſt*, and therefore to be caſt into the fire, *John* xv. 6.) began to take that way of puniſhing *Miſcreants*; ſo in [h] *Italy* [i] and *France*, *juſſu Regis & Univerſæ plebis conſenſu*, ſome were thus deſtroyed: and in imitation of Emperors, who had by their Edicts prohibited all complyance with Hereſie [k] ſo far, as to puniſh any lending for that end places to reſort unto, [l] *Alexander* the 3. 1163. in a Council held at *Tours*, & in another at *Rome* 1179. making very ſtrict canons againſt Hereticks, declared, *eos & defenſores eorũ & receptores anathemati decernimus ſubjacere, & ſub anathemate prohibemus ne quis ipſos in domo vel in terra ſua tenere vel fovere, vel negotiationem cum eis exercere præſumat.* Of which the later being [m] regiſtred in the Canon-law, is the firſt eccleſiaſtick conſtitution in it I have obſerved to condemn rather *Hereticks* then *Hereſy*. Soon after which * Publicani *comburebantur in pluribus locis per regnum*

* *Statute at Leiceſter* 2. *H* 5. *cap.* 7. *Here I cannot but obſerve*, Poſſidonius *in the life of St Auguſtin cap.* 18, *noting the manner uſed then in the Catholick Church in condemnation of Hereticks, conformable to what is here ſpecified, adds* Et hoc tale de illis Eccleſiæ Dei catholicæ prolatum judicium etiam piiſſimus Imperator *Honorius audiens* ac *ſequens*, eos legibus damnatos, inter hæreticos haberi debere conſtituit *against which ſome had added in the margin*, Cæſar pronuntiat hæreticos: *but that ſhewing too appa-*

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*rent, the cuſtom of thoſe times, might perhaps (when the place it ſelf was not) be regarded. The Inquiſitors therefore of* Spain *in their* Index *at* Madrid, 1612. *p.* 37. *col.* 1. *appointed it to be blotted out. But this edict againſt the Pelagians, of whom that Father ſpeaks, is not now found either in the Codex of Theodoſ. or Juſtinian. But ſee Baronius tom.* 5. *anno* 419. *n.* 57, 58. *b Baron. To.* 10. *anno* 1000. *n.* 4. i *Ibid. To.* 11. *anno* 1017. *n.* 4. k *Cod. Theod. de Hæret. leg.* 12, 21, 34, 36. *&c.* l Hoved. *fol.* 334. *a.* 42. *& apud* Neubrigenſ. *lib* 2. *c.* 15. *canon.* 6. m *De Hæret. c.* 8. * Roger Hoveden, *an.* 1182. *fol.* 352. *b.* 29. *in fine anni.*

*gnum* Franciæ, *quod Rex* Angliæ *nullo modo permiſit in terra ſua, licet ibi eſſent perplurimi.*

8. Yet the pious men of thoſe times ſeem not to approve of this rigour. St. *Bernard*, one of the moſt devout perſons of that Age (*vir plane Apoſtolicus* ſays [n] *Bellarmine*) following the Doctrine of one much more Apoſtolick, [o] explaining *Cantic.* ii. 15. *Take us the little foxes that ſpoyl the vines*, writes, *ſi juxta allegoriam eccleſiæ vineas, vulpes hæreſes, vel potius hæreticos ipſos intelligamus, ſimplex eſt ſenſus, ut hæretici capiantur potius quam effugentur; capientur dico, non armis, ſed argumentis, quibus refellantur errores eorum, ipſi vero ſi fieri poteſt reconcilientur Catholicæ, revocentur ad veram fidem —— hoc denique velle ſe perhibet, qui non ſimpliciter* capite vulpes, *ſed* capite nobis, *inquit*, vulpes parvulas; *ſibi ergo & ſponſæ ſuæ, id eſt Catholicæ, jubet acquiri has vulpes, cum ait capite eas nobis*; and a little after, *Quod ſi Hæreticus reverti noluerit, nec convictus poſt primam jam & ſecundam admonitionem —— erit devitandus.* Thus the holy men of the Age in which they ſtopt firſt mens mouths not with arguments but arms, did judge of it: and indeed we have not many examples of any ſuffered meerly for conſcience till after 1216.

n *De ſcriptor.*

o Bernard. *in Cant. ſerm.* 64. *to.* 1 *col.* 987. k. *edit.* 1586.

2. In which year, as ſome write, *Innocentius* 3^tius. *p* on the ignorance or remiſſneſs of Biſhops in perſecution of Hereticks, did give beginning to the [q] erection of a new Court, called ſince the *Inquiſition*: of whoſe inſtitution and uſe, becauſe it hath highly ſerved to the raiſing the Papacy, it will be neceſſary to ſay ſomething. He therefore at that time appointing *Dominicus* a *Spaniard*, founder of the *Dominican* Order, by a Commiſſion delegated from him, his Inquiſitor againſt the *Albigenſes* in *France*, (without abrogating the power of Epiſcopacy in that kind) gave to him, only a private Friar, ſuch a power, as cauſed divers of them to be deſtroyed by that auctority in another Prince's Dominions. Though ſuch as

p Paramo *de origine Inquiſit. lib. Tit.* 1. *cap.* 1. *n.* 7. q 90. Simanca *Cathol. Inſtitut. Tit.* 25. *n.* 4. *p.* 182. *Romæ* 1575.

q Paramo *de origine Inquiſit.*

o I have ſeen do conclude the auctority he exerciſed to have been from *Innocentius* 3^tii. yet of the time when it was granted they do ſomewhat diſagree. *Franciſcus Pegna*, a *Spaniſh* Doctor, who publiſht his annotations on the *Directorium Inquiſitorum* at *Rome* 1585. yet it ſeems ſ could not ſecure himſelf from them, t holds it to have been firſt commited unto him about 1200. on the other ſide *Paramo* of the ſame nation, that was himſelf an Inquiſitor in *Sicily*, and expreſly writes of that ſubject, is u clearly of an opinion it could not be before the concluſion of the Council of *Lateran*; and for proof gives in my judgment a very probable reaſon, *viz.* That no Papal Decretal, or Hiſtory preceding, did ever name any ſuch Inquiſitor, that very x Council when it treats of Hereſy ſpeaks of no other Judge than the Biſhop: now it ending about *Eaſter* 1216. (as I ſhall ſhew hereafter) if granted by *Innocentius*, it muſt be at ſome time between *March* and the 16. *July* 1216. when that y Pope dyed. Yet I cannot omit that z *Camillus Campegius*, in his additions to *Zanchinus*, ſpeaks as if after that Council Friar *Dominick* had not his auctority from the Papacy immediately, but from one *Bertram* or *Bertrand* a Cardinal Prieſt: but who that *Bertram* was, I confeſs I have not been able to ſatisfie my ſelf. b *Ciaconius* remembers one of the name employed againſt the *Albigenſes*, promoted to that honour by *Innocentius* 3^tii. 1212. but he ſtyles him only a Cardinal Deacon; as he hath another ſo called that was a Prieſt, but he was no Cardinal, till *Honorius* 3^tii in *December* 1216 preferr'd him to the honour, ſo was not capable of ſerving Pope *Innocent* in that degree.

10. But whoſoever firſt began it, *Frederick* the 2d. certainly much augmented their power, c publiſhing the

r Franciſcus Pegna, Ludovicus à Paramo, Famianus Strada *de bello Belgico lib* 2. *p.* 41. *in fol. Roma* 1640.

ſ Oſſat. *Epiſt.* 59. *Roma* 5. *Iun.* 1596.

t *In Direct. part.* 3. *comment.* 32. *p.* 495. *col.* 1. *b.*

u *De origine Inquiſit. lib* 2. *Tit.* 1. *cap.* 1. *n.* 13. *cap* 2. *n.* 3. *p.* 96. *col.* 2.

x *Cap.* 6, 7, 8.

y *Cap.* 8. *n.* 36.

z Urſpergenſis *p.* 321. *obiit apud Peruſium* 1216. 16. *Calend. Auguſt.*

a *Edit. Roma.* 1579. *p.* 149. *concilio abſoluto Bernardus presbyter cardinal. ipſum legationis officium obtinuit qui prædeceſſorum exemplo B. Dominicum Inquiſitorem ſimiliter inſtituit.*

b Alphonſus Ciaconius *de Cardinal. Roma* 1630. *p.* 650. *col.* 1. *& pag.* 663.

*Col.* 1. c *Vid. Bull. Innocent.* 4. *dat.* 11. *Kalend. Iunii Pontific. anno* 11. 1254. *in bullario à Franciſco Pegna edit. ad calcem Directorii, p.* 16. *& Alexandri* 4 *ibid. p.* 34. *Clementis* 4 *vi. ibid. p.* 57. *&c.*

the 22 of *February* 1224. three laws at *Padua*, by which he did conſtitute the *Dominicans* Inquiſitors through the Empire, yet taking all others under his protection; and appointing ſuch as ſhould be convict of Hereſy, *ut vivi in conſpectu hominum comburantur, flammarum commiſſio judicio, &c.* That theſe Edicts were publiſht at the only inſtance of *Honorius* 3^us. is very probable, in that they are not any way [d] recorded but in papal bulls *quoad verba*, (∴ as I ſhall ſhew hereafter.) After which, ſeveral perſons in divers parts proceeded againſt them by commiſſion from *Rome*: ſo as the Biſhop, who was the ordinary detector of Hereſie, had little to do, and became daily to have leſs and leſs; that although his power be not in thoſe caſes abſolutely taken off, yet it is ſo impaired, as it gives place to the Inquiſitor; inſomuch as if one ſuſpected of Hereſie be cited by him and the Biſhop [e] at the ſame time, his appearance muſt firſt be in the Inquiſition: and the reaſon given is, becauſe they have a power by a delegated commiſſion from the Pope, [f] whereas to the other *jure divino hæc cura incumbit in hæreticos inquirere*; and [g] *Simanca* yet more plain, *Cum Epiſcopi non habeant ſecretum carcerem, nec miniſtros idoneos ad procedendum adverſus hæreticos, non poſſunt ſervare ordinem illum qui præfinitus eſt Inquiſitoribus: quam ob rem uſque eo tantum procedere debent, ut in hæreticos vel ſuſpectos inquirant, & ſummariam probationem Inquiſitoribus ſecreto mittere debent.* So that what power the Biſhop hath in this kind from *Chriſt*, he is now become little other than agent or ſubſtitute to the Inquiſitor in point of Hereſie.

d *In ſexto de hæreticis cap. 18. Gloſſa ad leges quaſdam. ∴. n. 18.*

e *Paramo de poteſtate delegata lib. 3. Quæſt. 2. n. 109. p. 536. col. 1.*

f *Ibid. lib 2. cap. 2. n. 11. p. 133. col. 1.*

g *Inſtit. Catholi. Tit. 25. n. 5.*

11. But theſe Commiſſioners exerciſing their auctority with Fire, Tortures, and the like, in ſhort time found themſelves infinitely miſtaken, in expecting by ſuch violence to render that peace in the Church, and obedience in the world, the primitive Fathers by the truth of their Dictates, evidence of reaſon, and piety of their lives, drew

drew men unto: for in ſome places they were [h] expell'd by the peoples fury, hardly any-where continued but by ſtrong hand; their carriage being ſo full of Scandal, as *Clement* the 5. in the Council of *Vienna* could not but acknowledge they had ſo exceeded the power committed to them by the Apoſtolick See, [i] *ut quod in augmentum fidei per circumſpectam ejuſdem ſedis vigilantiam ſalubriter eſt proviſum, (dum ſub pietatis ſpecie gravantur innoxii) cedat in fidelium detrimentum.* For theſe men took upon them under the Pope, not only to conſtrue what was Hereſy, or complying with it, but on thoſe imputations to impriſon, fine, confiſcate mens goods, to the deſtruction of honeſt people, and families; which forced ſome States [k] to limit their proceedings, bar them of priſons proper to themſelves, and the wiſe *Venetian* appoint three Senators to ſuperviſe their actions: inſomuch as this delegated power did ſo decline, as notwithſtanding the many Conſtitutions of *Innocentius* 4^tus, *Alexander* the fourth, and ſeveral other Popes yet extant for regulating of it, out of *Italy* it was little taken notice of; [l] in *Spain* it remained *obſcurum debilitatumque*, till *Ferdinand* and *Iſabella* 1479. by agreement with *Xiſtus* 4. or, as [m] others, 1484. with *Innocentius* 8, did ſo renew it, as [n] *Simanca* doubts not to write, they did introduce it into that Kingdom: which I conceive to be in reſpect of the alterations in the proceedings now uſed to thoſe were formerly; for that tribunal, in preceding times committed from the Papacy to Friars regulars (who moſt depended on *Rome*) and therefore ſaid to be the Popes Court, is ſince by this concord become in effect no other than the Kings, being recommended to the care of Clerks ſecular and Lawyers, the *Dominicans* who formerly governed it altogether excluded, unleſs where the Inquiſitors require their Counſel.

12. The ſtyle or manner there uſed being, that his

h *Vide additiones ad* Lambertum Schafnaburgenſem *anno* 1232. Trivet. *Chronic. Hirſaug. anno* 1214. *p.* 223. & *anno* 1233. *p.* 235. Mat. Paris *Anno* 1236. *p* 429. *anno* 1238. *p.* 482. Munſteri *Coſmograph. p.* 477.

i *In Clement. de Hæreticis, cap.* 1.

k *Vide* Giovanni Villani *lib.* 12. *cap.* 57.

l Paramo *de origine Inquiſit. lib.* 2. *Tit.* 2. *c.* 2. *n.* 13. *pag.* 133. & *cap.* 3. *n.* 5. *pag* 136.

m Franciſ. Pegna *in Director. part.* 3. *com.* 32 *pag.* 495. *col.* 1.

n *Cathol. Inſtit. Tit.* 34. *n* 5 *See* Pegna *ubi ſupra.*

jeſty *o* names an Inquiſitor general, whom the Pope approves, and after is not at all admitted to interpoſe; for that Inquiſitor nominates a Council, of which himſelf is Preſident, for number and perſons as the King likes (as ſometimes five, to which *Philip* the 2. added two more) and theſe be of the graveſt Divines of *Spain*, ever reſiding at or near the Court, who compoſe all differences ariſing in particular Courts, receive all appeals, puniſh the defect of agents, and relates to none but the King. Of this Council, as I ſaid, the Inquiſitor general is Preſident, whoſe Authority is very ample; for he nominates all provincial Inquiſitors and their Officers (who yet enter not on their charges but by the Kings allowance) whom on occaſion he removes and puniſhes, releaſes all penances, appoints viſitors over particular Courts, and though he be directed by the rule of the Canon Law and Papal Bulls, yet on occaſion varies from them, as is manifeſt by *p* theſe inſtructions, *Relinquendum eſt arbitrio & prudentiæ Inquiſitorum, ut procedant juxta juris diſpoſitionem in his quæ hic non expreſſe declarantur*; is anſwerable to none but the King, admitting the Pope either very little or not at all: inſomuch as *q Pius quartus*. 1565. ſending the Cardinal *Buon Compagno* into *Spain*, upon the cauſe of the Archbiſhop of *Toledo*, committed by the Inquiſition there ſix years before on an imputation of Hereſy, the Kings Council liked not he ſhould alone examine that Prelate, without joyning two *Spaniards* both in the proceſs and ſentence. Neither did that State receive the Council of *Trent*, 1564. by other Authority than the Kings only, who by his Edict of the 12. of *July* commanded the Cardinals and others of his Clergy to obſerve it, without making any mention of the Pope. So that in that Kingdom this Catholick Prince doth not take on him much leſs over Eccleſiaſtick Courts and cauſes than the King of *England*, however he do not ſtyle himſelf Head of

*o Vide* Paramo *de origine Inquiſit. lib. 2. Tit. 2. cap 4. per totum*: & Simanca *ubi ſupra, Tit. 34. n. 6, 7.*

*p Inſtruct. Hiſpal. cap. 28. ut citatur à* Paramo *p. 346. col. 2. n. 4.*

*q* Adriani *Hiſt. lib. 19. p. 1241. & ibid. lib. 18 p. 1273.* Ilefcas *Hiſt. pont. Madriti 1606. lib. 6. in Pio 4. fol. 342. a col. 2.*

of the Church. And therefore r *Simanca* speaking of this Inquisition, plainly sayes, *Ferdinand* and *Isabella judicii ordinem quo etiam hodie utimur magna ex parte instituerunt.* Insomuch as if we meet it at any time termed the *Popes Court* there, it is, no question, but a nominal appellation, of that is neither subject to his rules, nor to follow his commands, but as another will.

r *Cathol. Instit. Tit.* 34. *n.* 5.

13. But this Court in *Spain*, and other places, conforming themselves much to the Papal interest, is become very infamous, things being carried in it, as we read in s Monsieur *de Thous* excellent history, *prepostera judiciorum forma, contra naturalem æquitatem, & omnem legitimum ordinem,* —— *tum etiam immanitas tormentorum, quibus plerumque contra veritatem, quicquid delegatis judicibus libebat, à miseris & innocentibus reis, ut se cruciatibus eximerent, torquebatur.* And indeed the directions Popes have set them, do not agree I think with the practice of any standing Court of Justice the world ever saw: as that of t *Innocentius* 4^us^ and u *Pius* 4^us^, that no man shall know the names either of his accuser or that testifies against him, which x *Camillus Campegius* will not have communicated to those learned men th' Inquisitors shall call to their assistance in judgment. Another y of *Pius* 5^us^, that no declaratory or definitive sentence in favour of the accused, though after a canonical purgation, *posse facere transitum in rem judicatam*, but that they may again proceed *tam de antiquis quam noviter super eisdem articulis:* which in effect is no other, but that a man once accused before them can never be freed. Of a third of the z same Pope, that whosoever should strike or terrifie any belonging to the said Office, (even a Notary or servant) should assist any to escape, imbezzle any

s *Hist. lib.* 3. *pag.* 81. *Anno* 1547.

t *Apud Eymericum Director. Inquisit. par.* 2. *p.* 144.

u *Bulla Pii* 4. *cui initium* cum sicut. à Francisco Pegna *post Directorium edita, p.* 162.

x Constanter asserere audeo, quod nec ipsis peritis totus processus integraliter cum nominibus & circumstantiis publicandus est, *&c. Additiones ad cap.* 14. Zanchini, *p.* 104. *Roma* 1570. *edit.* y *Bulla Pii* 5*ti*, *cui initium* Inter multiplices curas. *dat. Roma* 21. *Decemb.* 1566. *ubi supra, p.* 169. z *Bulla Pii* 5*ti*, *cui initium.* Si de protegendis, *dat. Roma* 1. *April* 1569. *ibid. pag.* 174.

any writings of that Court, beſides the being by that Bull declared *Anathema*, ſhould be guilty of treaſon, and ſuffer according as men found culpable *in primo capite dictæ legis*, their children ſubject to the paternal infamy, to be not only incapable of ſucceeding in the Fathers Inheritance, but of receiving any legacy from friend or ſtranger, or attaining any place of dignity whatſoever; and others of the like nature, too long to be inſiſted on.

14. Certain it will not be eaſy (at leaſt to my underſtanding) to prove theſe proceedings of a Court Chriſtian to agree with thoſe rules and examples Chriſt himſelf hath left us in holy Scripture: but the purſuing theſe Maximes, and the like, hath brought a great obloquy upon this Court, ſo as it is held an undoubted truth, the Inquiſition under the *Spaniard* hath an eye rather to empty the purſe, and is upholden more for temporal ends, than to cure the Conſcience. And to this purpoſe it may not be here unfitly remembred, that a *Spaniſh* Inquiſitor, employed by *Philip* the 2. into *Sicily*, writes, it is found amongſt the records of that Kingdom, * *quod quando in anno* 1535. *fuit limitata ſeu ſuſpenſa juriſdictio temporalis hujus ſancti officii in aliquibus caſibus per inviſtiſſimum Carolũ quintum fælicis memoriæ, juriſdictio ſpiritualis cauſarum fide fuit in ſuſpenſo, & quaſi mortua*: which I take no other than a confeſſion, the Church, which it maintains, without the temporal power would fail and come to nought; as indeed Cardinal *Bellarmin* ſomewhere in effect confeſſeth, that to reſtrain eccleſiaſtick juriſdiction to ſpirituals, that pertain to the Soul, is to reduce it to nothing.

a Adriani l. 17. p. 1258. c. *Hiſt. Concil. di Trent. lib.* 8. pag. 776.

* Paramo *de origine Inquiſit. lib.* 2. *cap.* 11. *n.* 17. *pag.* 203.

b *Riſpoſta ad fol.* 22. *Apolog. del Padre Paolo, pag.* 85.

15. But becauſe I am here entred upon this fining or confiſcation of the goods of a Lay-perſon by a ſpiritual judge, on the conviction (or rather imputation) of Hereſy, it will not be amiſs to ſee how the Eccleſiaſticks have gained that addition to the power left them by *Chriſt*; which is ſo neceſſary, as without it, that only

was

was committed to them from him, which the ancient Fathers practis't, would be as it were dead. It cannot be denyed, Princes did in former times by their Edicts impoſe pecuniary penalties on ſome actions concerning Religion; ſo did [c] *Theodoſius* 392. on ſuch as did ordain or were ordained *in Hæreticis erroribus*; which law a [d] Council held in *Africa* about 434. (provoked by the inhumanity of the *Donatiſts*) did petition th' Emperour *Honorius* might be of force againſt them: but never any holy Biſhop of thoſe times took upon him to confiſcate any mans eſtate for his opinions, much leſs to damnify the ſon for the Fathers *tenets*; and the lawyers do expreſly reſolve, [e] *ſi pœna alicui irrogatur —— ne ad hæredes tranſeat*, and give this reaſon, [f] *Pœna conſtituitur in emendationem hominum, quæ, mortuo eo in quem conſtitui videtur, deſinit*; again, no man is *alieni criminis ſucceſſor*, and accordingly, many [g] Imperial conſtitutions do expreſly provide, the Catholick children of Heretical parents (though the Father were deprived of them) ſhould ſucceed in their paternal goods; and thus it ſtood for ought I know for above a 1000 years, the Chriſtian world thinking it hard the ſon ſhould ſuffer for an erronious perſwaſion of the father, neither did ever any holy Biſhop for that ſpace (unleſs as Deputy to ſome Prince) take upon him that way of puniſhing, and if any did, it was not approved in him.

c *Cod. Theod. de Hæret. leg. 21.*

d *Conc. Afric. cap. 60 & Baron. To. 5. Anno 404. n. 123.*

e *ff. de pœnis leg. 20.*

f *Ibid. & leg. 26.*

g *Cod. Theod. de Hæreticis leg. 40. lata Anno 407. in Cod. Juſt. lib. eodem leg. 4. 19. lata Anno 530. & in Authenticis Novel. 115. cap. 3. Sect. 14. lata anno 542, &c.*

16. In the year 1148. [h] th' Arch-biſhop of *Canterbury*, called by *Eugenius tertius* to a Council at *Reims*, the King denyed him paſſage; yet he ſtole thither, for which on his return he was expell'd *England*: into which notwithſtanding he got, ſhrouding himſelf, as it ſeems, in thoſe tempeſtuous times, and to make himſelf the more formidable, interdicted divine Service through the Kingdom (which is the firſt experience the nation ever had of that cenſure.) To this the Prior of S. *Auguſtines* refuſed to yield obedience: and th' Archbiſhop having

h *Vide Gervaſ. Dorobern. col. 1363., 1364, 1366. 1. 1666. 20. Willielmus Thorn. col. 1807. 52, &c.*

now made his peace with *Stephen*, got the ſentence confirmed from *Rome*; upon which [i] *omnes ſeculares in hoc monaſterio ſervientes, præter cenſuram eccleſiaſticam, ad gravem pecuniæ redemptionem, contra juris æquitatem & ſanctorum patrum decreta, coegit.* On this complaint being made to the Pope, he writ unto him, [k] *Sicut nobis ſignificatum eſt, homines ejuſdem monaſterii, pro participatione excommunicatorum, præter eccleſiaſticam pœnam fuerunt ad redemptionem coacti*; and thereupon commands him, *quatenus omnia quæ hac occaſione ſunt eis oblata ſine vexatione reſtitui facias, nolumus enim ut nova in veſtra eccleſia inducantur*, &c. ſo that certainly it did but then begin to bud: & after 1160, *Alexander* the 3. [l] condemns the uſe of the Arch-deacons of *Coventry*, who *pro corrigendis exceſſibus & criminibus puniendis, á clericis & laicis pœnam pecuniariam exigunt*, affirming it ſeemed to proceed *de radice cupiditatis & avaritiæ*: yet the ſame Pope in a [m] Council at *Rome* 1179. appoints the goods of Hereticks to be confiſcated, but gives not at all any Authority to the ſpiritual Judg in the execution of it; and at the compiling of the Decretals by *Gregory* the 9. [n] that particular is omitted.

17. But not long after *Innocentius* 3, that *vere ſtupor mundi* and *immutator ſeculi*, as [o] *Matthew Paris* ſtyles him, about the year 1200 [p] appointed the goods of Hereticks under his juriſdiction ſhould be confiſcated, and out of it the like to be done by the ſecular Magiſtrate, upon pain of eccleſiaſtick cenſures; adding from certain [q] Imperial conſtitutions, that being only an act of mercy, that the children of ſuch as commit treaſon have their lives ſpared, when they loſe their goods, and the crime far greater to offend God than man, that the ſeverity ſhould not give ſcandal to the faithful, in ſeeing children expoſed to miſery for the parents offence, there being many caſes wherein according to the Divine juſtice ſons may be puniſht for the fathers fault, which he leaves

i Thorn Col. 1808, 63.

k Thorn. 1809, 55.

l De pœnis, cap. 3.

m Apud Rogerum Hoveden, fol. 334. E. 3. & Concil. general. Rome cap. 3. p. 33. col. 2.

n De Hæreticis cap. 8.

o Hiſt. minor. Anno 1217.

p De Hæret. cap. 10. & Regiſt. Innocent. 3. lib. 8. epiſt. 1.

q Cod. Theod. de ſicariis, leg. 3. & Cod. Juſt. ad legem Juliam Majeſtatis leg. 5. Sect. Filii.

leaves the Canoniſts to juſtify by th' examples of *Chanaan*, the children in *Sodom*, of *Achan* &c. as I do the reader to [r] ſeek in them. But it ſeems to me an hard gloſs, from prophetick ſpeeches of the primitive times, or extraordinary examples, when God himſelf directed what he would have done, for us now to conclude a practiſe lawful contrary to expreſs precept, *Deut.* xxiv, 20. *Jer.* xxxi, 30. *Ezech.* xviii, 20. made good likewiſe by the ordinary [s] uſe of thoſe times. Beſides, I am not ſatisfied with the reaſon, that temporal Lords puniſhing treaſon with the heirs loſs of Eſtate, Hereſy being an offence of the ſame or a worſe nature againſt the Divine Majeſty, children ought ſo to ſuffer: For doubtleſs all treaſon againſt a Prince preſuppoſeth malice to his perſon or government, (and therefore we do not read that for meerly caſual misfortunes, ſuch as *Tirrells* in *England*, or *Mongoveries* in *France*, men have been ſo puniſht) and for that they take away the offenders life upon the firſt fact, which th' Eccleſiaſtick [t] pardons: now queſtionleſs Hereſy is out of an erroneous opinion the holder hath of pleaſing God.

18. This of *Innocentius* 3^us^ I take to be the firſt Papal conſtitution in the kind; yet ſome 16. years before it, divers of ſeveral qualities being dicovered in that part of the *Netherlands* was then within the province of *Reims*, the Archbiſhop and Earl of *Flanders* joyned in an Edict, [u] *ut deprehenſi incendio traderentur, ſubſtantiæ vero eorum ſacerdoti & principi reſignarentur.* After this in [x] the Council of *Lateran* 1215. under the ſame Pope, it was again eſtabliſht, *bona damnatorum [de hæreſi] ſi laici fuerint, confiſcentur; ſi vero Clerici, applicentur eccleſiis à quibus ſtipendia perceperunt*, &c.

Nine years after which *Fredericus* 2^dus^ publiſht thoſe laws at *Padoua*, of which before, in which he did eſpecially eſtabliſh the confiſcation of their goods, and is the firſt Imperial conſtitution of that kind; which remain

r Alphonſus à Caſtro *de juſta hæreticorum punitione, lib.* 2. *cap.* 12. Simancas *Inſtit. Cathol. Tit.* 9 *n.* 5, 6. Joh. Royas *ſingular.* 66. *n.* 5, 6. *Vide* St. Auguſt. *lib.* 6. *Quæſt.* 8. *ſuper Joſ.*

s 2 *Kings* xiv. 6. 2 *Chron.* xxv. 6.

t *De Hæret. cap.* 9.

u *Chronicon Aquicinctinum* à Miræo 1608. *editum, ad calcem* Sigeberti Gemblacenſis *& aliorum, pag.* 236. *anno* 1183.

x *Concil. Lat. cap.* 3. *& de Hæretic. cap.* 13.

no-

no where now entire ſave in ſome [y] papal Bulls, as of *Innocentius* 4. *Alexander* the 4. and *Clement* the 4. as is noted *in Gloſſ. de Hæret. cap.* 18. *in ſexto ad verb.* leges quaſdam: yet ſome part of them are now inſerted into [z] the Codex of *Juſtinian*, under the titles of *Authenticæ* or *nova conſtitutio Frederici* 2. de ſtatu & conſuetud. *&c* as I have touched before.

19. But theſe Laws, though they confiſcated the goods of Hereticks, did not appoint how they ſhould be employed; inſomuch as the ſame Emperour, being that very year 1224 at *Palermo* in *Sicily*, [a] expreſſed his intent to all his Officers through the Empire, but more eſpecially in that Kingdom, that whereas formerly his Exchequer did receive the benefit of thoſe confiſcations, they ſhould be divided into three parts, *viz.* one third *Fiſco*, another *Apoſtolicæ ſedi*, & the other third *eiſdem Inquiſitoribus*. After which [b] *Innocentius* 4th 1252. did appoint a diſtribution in ſome ſort imitating him, as did likewiſe [c] *Alexander* the 4. including as liable to the ſame puniſhment ſuch as were receivers of Hereticks: to [d] which *Clement* the 4. 1265. added, that the houſes in which Hereticks were found, to be deſtroyed without hope of reedifying, the materials ſold, and a threefold diviſion made, *&c.* Theſe deprivations confined hitherto to *Italy* onely, *Boniface* the 8. 1295, or rather [e] 1297, publiſhing the ſixth book of the Decretals, made general, decreeing, [f] *bona Hæreticorum ipſo jure decernimus confiſcata*: whereupon, and ſome other by him then inſerted into the Canon-law, Biſhops laboured to draw from th' Inquiſitors part of the profits thus diſtributed; but [g] *Benedict* the 11. 1303. did abſolutly prohibit that, *tanquam juri abſonum*. After which, becauſe (as it ſeems) the Clergy were not free from proſecuting men onely for their eſtates, *Clement* the 5. in the Council of *Vienna* 1311. ſtrictly [h] injoyned, *ne prætextu officii Inquiſitionis, quibuſvis*

[y] *Edantur à* Franciſco Pegna, *ad finem Directorii.*

[z] De Epiſcopali audientia, *cap. Statuimus*, & de Hæret. Manichæis, *cap. Gazaros*, &c.

[a] *Apud* Paramum *de origine Inquiſit. lib. 2. Tit. 2. cap* 11. *n.* 8. *pag.* 198.

[b] *Bul. Innoc. 4. dat. idibus Maii 9. Pontif. cui initiũ.* Ad extirpanda, &c. *in bullario, & à* Franciſco Pegna *ad finẽ Directorii, pag.* 11. *Sect. Teneantur.*

[c] *Ibid. p.* 37. *Sect. Teneatur. dat. Anagniæ 2. Kalend. Decem.* 1259.

[d] *Ibid. p.* 65. *Sect Teneatur. Bulla Clem.* 4. *dat Peruſii* 3. *Non. Novemb.* 1. *Pontificat.*

[e] *Annal. eccleſiaſt. Reinaldi Tom.* 14. *anno* 1297. *n.* 41.

[f] *De hæreticis in ſexto cap.* 2 19. *vide cap.* 17, 18.

[g] *Extrav. commun. cap.* 1.

[h] *In Clem. de Hæreticis cap.* 2.

*buſvis modis illicitis ab aliquibus pecuniam extorqueant*; and likewiſe, *ne ſcienter attentent eccleſiarum bona, ob clericorum delictum, prædicti occaſione officii fiſco etiam eccleſiæ applicare*; changing what the Council of *Lateran* had before eſtabliſht.

20. Yet notwithſtanding this grave admonition of the Pope, their Agents did not carry themſelves without ſcandal in this kind, by reaſon of an *i* outrage ariſing from a *Franciſcan* Inquiſitor 1346 in *Florence*; a Scrutiny was had of his actions, and found he had raiſed from the Citizens 7000 florens of gold in two years, as compoſitions, or fines, upon the imputation of Hereſie, yet never leſs in the town; but an erroneous or leſs cautelous word was cenſured as criminal. This drew the *Florentines* to conform themſelves to the uſages of *Perugia*, *Spain*, and other parts, in making a Law, no Inquiſitor ſhould condemn any Citizen or borderer pecuniarily, but if an Heretick, ſend him to the fire. By which we may gather, theſe Bulls were not generally received in the world; for then in *Spain* the Eccleſiaſtick did not fine men, and now the King there hath the benefit of thoſe confiſcations. In[k] *France* they do not to this day impoſe on the Laicks *amendes pecuniares*, but only on the Clergy, which muſt be expended *en aumoſnes* and *ouvres pitoiables*, not to the enriching themſelves, *&c.* Neither doth the wiſe *Venetian* permit confiſcating of eſtates to ariſe from any ſentence of theirs, but that is to devolve to the next heir. I do not here mention the conſtitutions of *Boniface* Archbiſh. of *Cant.* 1260. nor of *Stratford* 1343. in this kind; becauſe of the firſt little reckoning was made, and the ſecond did only refer to commutation of penance, which the Law allows: he that would may find them in *Lyndwood* lib. 3. *de immunitate eccleſiæ*, cap. *Accidit*, and lib. 5. *de pœnis*, cap. *Evenit*.

i Giovanni Villani *lib.* 12. *cap.* 57.

k *Arreſt de la court de Parliament a Paris* 27. *Iun.* 1542. *habetur in libro des preuves des libertes del' eſgliſe. Gallicant, cap.* 38. *n.* 9. *p.* 1012.

21. If any ask a cauſe, why the ancient Fathers did procced with ſo great lenity againſt blaſphemous here-

ticks, as the *Arrians*, *Nestorians*, &c. why, when the [l] Emperour would have punisht the furious *Donatists* with a pecuniary mulct, the holy men of those times so earnestly interceded as to procure the remission, and did requite their fury with such love and meekness, [m] as to be able to say, no one of them had payed what the Imperial Edicts might challenge; when of late years men have been brought to the fire, children exposed to misery by the loss of their Parents Estates, even by Bishops, and other of the Clergy, whose opinions were neither so blasphemous as the *Arrians*, nor their comportments so inhumane as the *Donatists*: why they Preached, men [n] relapsed, even to a thousand times, might yet live reconciled to the Church; when-as now such as have renounced an opinion *Rome* calls Heresie, being after found to hold it, is [o] *seculari judicio sine ulla penitus audientia relinquendus*; which yet is not observed if he be a Prince, as was *Henry* the 4. or perhaps a private man out of their power.

22. To these demands I can give no other answer, but, that their offences being against the holy Trinity, the pious Bishops of those times, as men who watched for Souls, did content themselves to denounce what was Heresy, but having done that, finding it not received, to leave the punishment to him who assures it shall go worse with *Sodom* and *Gomorrah* than those refused their instructions, and under him to the Secular magistrate; did likewise follow his Precept, in forgiving even to [p] seventy times seven times: when on the other side, the opinions of these later Hereticks (as they call them) be rather against men and their Institutes, than God, as that [q] *Romanum præsulem reliquis episcopis parem esse, Purgatorium ignem non inveniri, Celebritates sanctorum rejiciendas, jejuniis ab ecclesia institutis nihil inesse meriti*, &c. and a perswasion gained, none but the Ecclesiastick can [r] punish Heresy, who judge the opposer by the law of man, howbeit they stile it Christian, yet how it agrees with Divinity

l August. *Epist.* 68.

m August. *contra literas Petiliani Donat. lib.* 2. *cap.* 83.

n Χιλιάκις μετανοήσας εἴσελθε. Socrates *de Chrysostomo lib.* 6. *cap.* κά. *lat.* 19.

o *De Hereticis cap.* 9. *& tit. eodem cap.* 4. *in Sexto.* Simanca *Instit. Cathol. Tit.* 57. *n.* 10.

p *Mat.* xviii. 22.

q Æneas Sylvius *histor. Bohemica cap.* 35.

r Cognitio hæresis & ipsius punitio pertinet ad episcopos. Lyndwood *de Hereticis cap.* Item quia, *verbo* Ordinarii.

nity I remit to the Canoniſts deciſion. In the mean time I cannot but obſerve, [f] *Simanca* finds nothing out of holy Writ, but only in divine *Plato* lib. 10. *de legibus*, to maintain the poſition, that *ſemel tantum hæreticus pœnitentibus parcitur*, &c.

[f] *Cathol. Inſtit. Tit.* 37.

23. This being then the proceeding againſt Hereticks in general, it will be neceſſary to ſee how it was formerly in *England*, and how the Queen found it. Firſt, it will not be unfit to premiſe, [t] that from the Converſion of the *Saxons* to the year 1166. no Hereſy was ever known to have been in *England*; inſomuch as we may ſafely conclude, whatever doctrine we meet with in the publick Homilies of the Church, or other writers of elder times, muſt be eſteemed Catholick, however it now ſtand cenſured: but in that year about xxx *Dutch* came hither, that deteſted Baptiſm, the Euchariſt, &c. who being convict by Scripture in an Epiſcopal Council called by the King of *Oxford*, were remitted to his diſpoſition, that cauſed them to be whipt, and burnt in the face, and a command given none ſhould either receive or relieve them, ſo that they miſerably periſht: which ſeverity his Majeſty did not think fit afterwards to extend to thoſe were then called *Publicani*, as I have before * ſhew'd, though there were many in his Dominions.

[t] Neubrigenſis *lib.* 2. *cap.* 13.

* n. 7.

24. For the Puniſhment of Hereticks, it cannot be doubted by the common Law (that is the cuſtom of the Realm) of *England* to have been here, as in other parts of the world, by conſuming them by fire. [x] *Baleus*, from the teſtimony of a Chronicle of *London*, reports one of the *Albigenſes* to have been ſo made away there 1210. to which the * learned *Camden* ſeems to allude, when he ſays more died in Queen *Maries* time, than this nation had ſeen *ex quo regnante Johanne Chriſtiani in Chriſtianos apud nos flammis ſævire cœperunt*. The ſame *Paramo* ſaith is made good by an epiſtle of *Tho. Waldenſis* to *Martin* the 5. but I have not ſeen it; I am ſure in

[x] *Deſcript. Brit. Cent.* 3. *cap.* 65. *in Appendice.*

* *Apparat. Eliz.*

that *Waldenſis* I uſe it is not found. But of the truth of the thing there is no queſtion; for [y] *Bracton* writes of an Apoſtate Deacon, that in a Council held at *Oxford* 1222. by *Stephen Langton* was firſt degraded, and then by the Lay committed to the fire: with whom for the thing agrees [z] *Fleta*; yet, by the way, where you read in him *per manum comburentur clericalem*, it is to be *Laicalem*, for ſo is *Bracton*, out of whom he tranſcribed it, agreeing with the continual practiſe both of this and other Nations; for the Clergy meddles not with Execution.

[y] *Lib.* 3. *de corona cap.* 9. *n.* 2. *fol.* 124. a. Britton *cap.* 9.

[z] *Lib.* 1. *cap.* 29. *in fine, p.* 46.

25. In *Edward* the thirds days, about the year 1347, [a] *Polydore Virgil* teſtifies two *Franciſcans* to have been burnt, *quod de religione male ſentirent*. Neither did *William Sautry*, a relapſed Prieſt, die by any Statute-law 2. *H.* 4. but convicted in a Provincial Council of the Archbiſhop of *Cant.* the Writ *de hæretico comburendo*, bearing date the 26. *February*, was by the advice of the Lords Temporal ſent to the *Major* of *London* to cauſe him to be Executed, [b] *attendentes*, ſays it, *hujuſmodi hæreticos, ſic convictos & damnatos, juxta legem divinam, humanam, Canonica inſtituta, & in hac parte conſuetudinaria, ignis incendio comburi debere*, &c. But where [c] *Walſingham* ſpeaks as if he died during the ſitting of the Parliament; by vertue of [d] the Law then made againſt Hereticks, the Hiſtorian is without peradventure miſtaken; for that Parliament, begun about the 20. *January*, ended the 10. *March* following, did expreſly provide, on the Petition of the Commons, [e] *qe touz les eſtatutz & ordenances faitz ou affaire en ceſt Parliament qe ſont penalz, ne tiegnent lieu ne force devant le feſte de Pentecoſte prochin venant, les queles en le meſme temps puiſſent eſtre proclamez*: to which the anſwer is, *le Roy le voet*. So that certainly he could not die by the Law, which was not to take effect till ſo long after.

[a] *Hiſt. Angl. lib.* 19. *p.* 382. 39.

[b] *Rot. Parl.* 2. *Hen.* 4. *n.* 29.

[c] *Ypodigma Neuſtriæ anno* 1401. *p.* 158, 39.

[d] 2. *Hen.* 4. *cap.* 15.

[e] *Rot. Parl.* 2. *Hen.* 4. *n.* 116.

26. But I confeſs I did a little doubt of two particulars;

lars: The one, whether by the common Law a Layman could be ſent to the fire for any conviction by the Eccleſiaſtick; for all the undoubted precedents I have met with (unleſs that of the *Albigenſes* were otherwiſe) were of ſome Clerks, within the pale of the Church that were ſo puniſht; and *Bracton* and *Fleta* both agree, *Clerici Apoſtatæ comburantur*; whoſe words being penal, I conceived *ſtrictæ juris* not to be conſtrued by equity. But indeed *Fleta* elſewhere ſpeaks more generally, *Chriſtiani Apoſtatæ* * *detrectari debent & comburi*; and *f Britton* of *Miſcreants* ſo to be ſerved, without diſtinction of the quality; with whom Sr *Edward Cook* concurs. Another thing I queſtioned, whether any Biſhop within his Dioceſs alone could convict one of Herely before 2. *Hen.* 4. cap 15. (of which hereafter:) for whatever the power of the Ordinary was, there is very little example of his putting it in exerciſe before the times of *Wickliff*.

* *I read it* detrectari, *not, as the print,* detractari.

f *cap.* 9. *fol.* 16. b.

27. Who began to be taken notice of about the end of *Edward* the 3. or rather the beginning of *Rich.* the 2. in whoſe doctrine, at leaſt that they fathered on him, though there were good Corn, yet was it not without Tares. But when it grew common, and to be hearkned unto, the Prelates laboured to procure g a Law, his Ma^ties Commiſſions ſhould be directed to the Sheriffs and other his Miniſters, *to arreſt all preachers, their fautors*, &c. *to hold them in priſon, till they will juſtifie themſelves according to reaſon, and the Laws of the holy Church.* How this paſt I ſhould be glad to learn; for not only h the printed ſtatutes, but i the Roll of Parliament expreſly mentions the Commons agreeing to thoſe Acts; yet the * next meeting they do diſclaim to have given any aſſent unto it, *que il ne fuſt unques aſſentu ne grante parles coēs, mes ce qe fuſt parle de ce fuſt ſanz aſſent de lour qe celuy eſtatut ſoit annienti*: to which the Kings anſwer is, *y pleſt au Roy*. How it fell out this latter was not counted an Act, k Sr. *Edward*

g 5 *Ric.* 2. *cap* 5. *ſtat.* 2.

h 5. *Ric.* 2. *cap.* 1.

i *Rot. Parl. lendemain Iehan port Latin.* 5. *Ric.* 2. *n.* 13.

* *Rot Parl. Octaves St. Michel.* 6. *Ric.* 2. *n.* 52.

k Cook *Inſt.* 3. *p.* 41.

*Cook* hath ſhew'd, which tells us why it paſt again without oppoſition in [l] Queen *Maries* days. I wiſh that learned Gentleman had given his opinion how the record came to be ſo faulty, as to affirm a concurrence of the lower Houſe to that they never aſſented.

l 1 & 2. P. & M. cap. 6.

28. In King *Hen.* the fourths time his ſucceſſor, that [m] Law paſt, which greatly increaſed the power of the Ordinary, *allowing him to impriſon, fine, determine all cauſes of hereſy, according to the canonical decrees, within three moneths*: On which words Canonical Sanctions the Biſhops ſo behaved themſelves, [n] *That the moſt learned man of the realm, diligently lying in wait upon himſelf, could not eſchew and avoid the ſame act and Canonical Sanctions, if he ſhould be examined upon ſuch captious interrogatories as is and hath been accuſtomed to be miniſtred by the Ordinaries of this realm, in caſes where they will ſuſpect of hereſy*, &c. Upon which, if any did refuſe obedience to his *Dioceſan* in ought, [o] as *paying a legacy*, &c. there would be means found to bring him within the ſuſpicion of Hereſy. And certainly the proceeding of ſome Dioceſans upon this ſtatute gave quickly ſcandal: for only nine years after, we find the Commons petition, [*] *Je pleaſe a noſtre ſoveraigne Seigr le Roy grantier, qe ſi aſcun ſoit ou ſerra arreſte par force de l' eſtatute fait l' an de voſtre regne ſeconde, al requeſte des Prelats & Clergie de voſtre Royalme d' Engleterre, q'il purra eſtre liſſe a mainpriſe, & faire ſa purgation franchement ſanz deſtourbance d' aſcun meſme le Conte ou il eſt arreſtu, & qe tieles arreſtes ſoient deſore en avant faitz en due forme de ley, par les Viſcount, Mairs, Baillifs ou Coneſtables noſtre Seigneour le Roy, ſanz violent affray, our force & armes, en depredation de leur biens, ou autre extortion ou injurye queconque en celle affaire.* But to this, *le Roy ſe voet ent aviſer* is all the anſwer given. But whereas [*] *Walſingham* ſpeaks of this Parliament as infected with *Lollardy*, certainly to me there is no ſuch thing appears in the Roll, but rather the contrary. But I confeſs

m 2 *Hen.* 4. *cap.* 15.

n 25 *Hen.* 8. *cap.* 14.

o Cook *Inſtit.* 3. *cap.* 6. *p.* 42.

[*] *Rot. Parl.* 11. *Hen.* 4. *n.* 29.

[*] Walſing. *Anno* 1410. *p.* 422.

confeſs I did think before that Law of *H.* 4. no Biſhop in his Dioceſs, without a provincial Council, could have convicted any man of Hereſy, ſo as to have cauſed him been burnt; for mans life being a point of ſo high concernment in the Law, and Hereſy laying ſo great an imputation on the party, it ſeemed not to me probable, every angry Biſhop in his Court ſhould alone have power of determining what was by the Canonical Sanctions ſo eſteemed, and whoſe words or writings could admit no other ſenſe than heretical: and with this it ſeemed to me the practice did concur, for the Deacon burnt at *Oxford* ſuffered after conviction in a provincial Synod; and the conviction of *William Sautry* ſhews plainly to have been after the ſame manner, [q] the Writ running *Cum venerabilis pater* Thomas, &c. *de conſenſu & aſſenſu, ac conſilio coepiſcoporum, ac confratrum ſuffraganeorum ſuorum, nec non totius cleri Provinciæ ſuæ, in concilio ſuo provinciali congregato, juris ordine in hac parte requiſito in omnibus obſervato*, &c. intimating (as it ſeemed to me) if otherwiſe, the order of Law had not been obſerved. And I did ever conceive this Law had increaſed the Power of the Ordinary, as well in permitting him ſingly to purſue the *Canonical Sanctions* in convicting an Heretick, as in fining and impriſoning of him; eſpecially the ſtatute [p] Q. *Mary*, that gave it life after the repeal of *Hen.* the 8, affirming, *before ſuch revival the Ordinary did want authority to proceed againſt thoſe that were infected with Hereſy.* But I have ſince found [r] better opinion it was otherwiſe.

29. After this 2. *Hen.* 5. [s] a Parliament at *Leiceſter* enacted, *The* Chancellour, Treaſurer, Juſtices *of the peace*, Sheriffs, &c. *ſhould take an Oath for deſtroying all manner of Hereſies, commonly called* Lollardries, *to be aſſiſtant to the* Ordinary *therein; Perſons convict of Hereſy to loſe their fee-ſimple land; Juſtices of the Kings* Bench, *of the* Peace *and of* Aſſize, *to enquire of all holding any errours or Hereſies*

p *Rot. Parl.* 2 *Hen.* 4. n. 26.

q 1 & 2 *P. & M. cap.* 6.

r Cook *Inſt.* 3. *cap.* 5. *p.* 39.

s *Stat.* 2. *Hen.* 5. *cap.* 7.

*Hereſies as* Lollards, *their maintainers, receivers, fautors,* &c. *and for that end a clauſe to be put into the* Commiſſions *of* Juſtice *of the* Peace: *yet for as much as the cogniz ance of Hereſie, errours, and* Lollardries *belonged to Judges of holy Church, and not to the ſecular, the inditement taken by them not to be evidence, but for information before the ſpiritual Judge, into whoſe hands the perſon ſuſpected to be delivered within ten dayes after his inditement; every man empanell'd in the Enqueſt for the tryal of them to have in* England 5 *pounds, in* Wales *forty ſhillings in land by the year,* &c. Which three Laws were each repealed by *Hen.* the 8. or *Ed.* the *6.* and again reſtored by Q. *Mary*: under whom, by vertue of them, had in leſs than three years been ſpoiled for Religion more Chriſtian blood of her ſubjects, than in any Princes reign ſince *Lucius*.

30. Things ſtanding thus when Queen *Elizabeth* came to the Crown, the Eccleſiaſtick Authority exerciſed at home and abroad with rigour and auſterity, rather than Chriſtian mildneſs; ſtill to permit that, was the continuing a fire to conſume her people, and yet for every one to think and do without controul what him liſt, was to let looſe all reins of Government, to leave open a door for ſedition to diſquiet her Kingdom, and the Common-wealth perhaps not to be ever in peace: her Majeſty therefore took a middle way to agree with the primitive times, and yet not let every profane humor diſturb the Church, by [t] erecting a Court with power *to viſit, reform, redreſs, order, correct and amend all ſuch errours, Hereſies, ſchiſmes,* &c. *which by any ſpiritual or eccleſiaſtical power, authority, or juriſdiction can or may lawfully be reformed, ordered, redreſſed, corrected, reſtrained or amended*; yet reſtraining them from adjudging any thing to be Hereſy, that had not been heretofore adjudged ſuch *by the plain words of the Canonical Scriptures, or by any one of the firſt four general Councils, or by any other general*

[t] *Stat.* 1. *Eliz. cap.* 1.

*general Council, wherein the ſame was declared Hereſy by the expreſs and plain words of the canonical Scripture, or that ſhould hereafter by the Parliament with the aſſent of the Convocation, &c.*

From whence ariſeth a queſtion of ſome intricacie, how it came to paſs thoſe times ſpake with ſo great ſubmiſſion to the four firſt general Councils, and yet ſo reſtrained the other, without expreſſing which they were, nor any other particular concerning them. For the ſolution of which, we are to know, thoſe have been ever looked on by the Catholick Church with more reverence than any other that ever yet were held. The [n] Emperour *Juſtinian* 541. declared which they were, and that he did receive *earum dogmata ſicut ſanctas ſcripturas, & regulas ſicut leges obſervamus*; who made not the like mention of the fifth, though [x] called by him, and held in his time. Neither did *Gregory* the great, who did reverence them, *ſicut ſancti Evangelii quatuor libros*, make the ſame eſteem of the fifth; for having made honourable mention of it in a Letter to a Queen of *Lombardy*, ſent by a Biſhop of *Milan*, the Biſhop gave it her not, on an opinion ſhe might be ſcandalized at his namning of it: upon which [z] St. *Gregory* ſent him word he did well, and in that altered his epiſtle. And the year following, *viz.* 596, [*] the People of *Ravenna* oppoſing one *Maximianus* in being their Biſhop, as not of ſound belief, in that he did not carry ſo great veneration to the Council of *Chalcedon*, he doth aſſure them of the contrary, that he did receive thoſe four Councils, but makes no mention of the fifth. I do not deny but [a] the faith of the fifth and ſixth were by this Church approved, yet never any of them had that great reverence yielded their dictates the firſt four had, which are therefore ſaid to have been [b] *Synodi firmiſſimæ* by *Elfrick*, in his Canons to *Wulfin.*

32. But theſe, however of this high eſteem, yet had not the name of general appropriated unto them till long

[n] *Novel.* 131. *cap.* 1. & *in Cod. de ſumma trinitate & fide Catholica leg.* 9.
[x] *Concil. gen. Romæ, to.* 2. *p.* 524, *col.* 1 E.
[y] *Grego. lib.* 1. *epiſt.* 24.
[z] Gregor. *lib.* 3. *epiſt.* 37.
[*] *Lib.* 5. *Indict.* 14 *epiſt* 2
[a] Beda *lib.* 4. *cap.* 17. *Concil. Calcenb. cap.* 1. *apud* Spelm. *p.* 293.
[b] *Canones Ælfrici ad Wulfinum apud* Spelman. *Concil. tom.* 33. *p.* 581. *vide* Egberti *Archiepiſc. de ſacerdotali jure cap.* 4. *ibid. p.* 278.

long after; for certainly that diſtinction was not ſuddenly brought into the Church, at leaſt in that ſenſe it is now taken, many Synods by our writers being ſtyled general, to which yet th' obligation was never of that nature as if they did not or could not err. [c] *Eadmerus* writes, *Anſelm* told *William* the 2, *generale concilium Epiſcoporum ex quo Rex factus fuiſti non fuit in* Anglia *celebratum*: and the like phraſe is uſed very frequently for *Engliſh* Councils not only in him, but in our other eldeſt and beſt Hiſtorians, [d] *Flor. Wigornienſis*, [e] *Simeon Dunelmenſis*, [f] *Huntington*, [g] *Gervaſ. Dorobernenſis*, [h] *Hoveden*, &c. [i] *Mat. Paris* ſpeaking of a Council held at *Weſtminſter* 1175. calls it *Concilium generale*, which in [k] *Diceto* is changed to *Concilium Regionale*, and in the margin added (out of the Mſs. copy ſomtimes belonging to St. *Albans*, and now at Saint *James*'s (the beſt and faireſt I ever ſaw) and which I conceive *Mat. Paris* himſelf uſed) *ſolius Papæ eſt concilium generale*, Romanæ *eccleſiæ &* Conſtantinopolitanæ *eſt concilium univerſale*: which I know not how he will make good, having the 3. and 4. Council of *Carthage*, [m] and one held there 403. the Council [n] of *Matiſcon* and others to conteſt with, which being no other than particular, as we now eſteem them, have in their acts the titles of being univerſal Councils. So the 4. Council [o] of *Toledo* is ſaid to have been general; as by *Bymericus* a [p] Council in *Tarragona*.

33. Now of ſuch as have been ſo called, it is manifeſt the value ſet on them is altogether vaniſht, and was ſo long ſince. [q] *Malmsbury* records, the Councils held by *Anſelm* were in his time become *obſoleta*, their credit loſt: and ſo we may ſay of the reſt, for [r] *Lyndwood* is very clear no *Engliſh* Councils oblige this Church, before 1222. *Stephen Langton* held one at *Oxford*. As for thoſe which the Popes called as *Patriarchs* of the Weſt, which *Diceto* conceives were properly general, the rite of

c p. 24, 7.
d *Anno* 1044. p. 405.
e *Anno eod. fol.* 180, 23.
f Hunt. *fol.* 226. p. 3.
g Ger. Dor. *col.* 1369, 62.
h Hoved. *Anno* 1044 *fol.* 252, a 35. *Anno* 1200. *fol.* 458, b. 18.
i *Hiſt. minori & majori*, p. 131. 19.
k Piceto *col.* 585, 63.
l *To.* 1. *Concil. Con. Carth.* 3. *cap.* 7. *concil.* 4. *in proœm.*
m *Ibid. Honor. Auguſto & Rumorido Coſſ.*
n *Tom.* 2. *Concil. Crab.* 1220.
o *Ibid. in proœmio.*
p *Director. par.* 2 *quæſt.* 56 *in fine p.*
q *De vit. Pont. in Anſelmo. fol.* 199. b. 30.
r *De panis, cap.* ad hæc, *verbo minime admittantur.*

of former times was, never to ſend hence more than four Biſhops unto them; which when it came in queſtion 1179. [f] *Epiſcopi Angliæ conſtanter aſſeruerunt, quod ad generale concilium Dom. Papæ quatuor Epiſcopi de* Anglia *tantum* Romam *mittendi ſunt*: which is ſo full a teſtimony of his having no abſolute power over our Biſhops not ſo much as to cauſe them meet in Council, as there cannot well be a greater; and therefore when he impoſed the oath (of [t] which before) on them, one clauſe was, *Vocatus ad Synodum veniam, niſi prapeditus fuero canonica præpeditione.* Yet in after Ages the going thither did only remain at the Princes pleaſure, [u] who gave them authority *conſentiendi, & ſi opus fuerit, diſſentiendi his quæ juxta deliberationem dicti concilii mihi ſtatui & ordinari contigerit.* All which I have ſpoke of general Councils, that the Reader may know, when he meets that phraſe in any author, he is not neceſſarily to conclude him to have conceived an obligation of following whatever they ſaid, nor that he held it to have been void of Errour, for it is unqueſtionable, they and we give the name of ſuch Synods as were eſteemed full of imperfections, far from that freedom ought to be in *General Councils*, to whoſe Canons they did not hold themſelves tyed.

[f] Hoveden *fol.* 232. a, 55.

[t] Cap. 3. n. 50. 51.

[u] *Vide* Selm. *ad* Radmer. p. 214. *ex archivis poteſtatem commiſſam Ambaſciatoribus ad intereſſend. concilio Baſilienſi.*

34. But becauſe in theſe caſes examples of former times do more convince mens judgments, than preſent aſſirmations, to give ſome inſtances, not of other than of ſuch as have been [x] lately printed, and with that title, at *Rome*, as the Council of *Vienna* 1311. which by **Giſburnenſis*, who lived about that time, is noted to have been nothing leſs than a free Council: the book is not printed, I will give you the whole therefore as I find it in him.

[x] 1608 & 1612. *Rom.*

* Gualterus Hemingford *Gisburnenſis.*

*Dominus Papa* Clemens *tenuit concilium ſuum* Viennæ *Anno Dom.* MCCXI. *prima die menſis* Octobris: *in quo quidem concilio tres fecit ſeſſiones.*

I. *In prima ſeſſione, facto ſermone, expoſuit Clero tres articulos ſuper quibus erat principaliter tractandum, & conſulendum; ſuper negotio terræ ſanctæ, quomodo poſſet recuperari & tueri, & ſuper ordine Templariorum, qui pro nullo habebatur; præcepitque omnibus Prælatis, & ſingulis qui convenerant, quod ſuper præmiſſis articulis uſque ad ſecundam ſeſſionem deliberarent.*

II. *In ſecunda ſeſſione facta eſt longa diſputatio de ordine* Templariorum, *utrum ſtare poſſet, vel deleri de jure deberet. Et erant pro ordine* Templariorum *prælati quaſi omnes, præter prælatos* Franciæ, *qui propter timorem Regis* Franciæ (*per quem, ut dicebatur, totum illud ſcandalum fuerat*) *aliud facere non audebant. Erant in toto Concilio* (quod Concilium dici non merebatur, quia ex capite proprio omnia fecit Dominus Papa, non reſpondente neque conſentiente ſacro Concilio) *baculi paſtorales circa* cxxx.

III. *In tertia ſeſſione Dominus Papa* [ſedit] *pro tribunali, & ab uno latere Rex Franciæ, ab altero Rex Navarniæ filius ejus: ſurrexitque quidem Clericus, & inhibuit ſub pœna excommunicationis majoris, ne aliquis loqueretur verbum in Concilio, niſi licentiatus vel requiſitus à Papa. Recitatoque proceſſu* Templariorum, *adjecit Papa,* Quod licet ex proceſſu præhabito ipſum Ordinem de jure delere non poſſet, tamen ex plenitudine poteſtatis Ordinem delevit, nomen & habitum, terras eorum & poſſeſſiones *Hoſpitalariis* conferendo, aggregando, & uniendo.

35. The like may be ſaid of the Council of *Lateran* under *Innocentius* 3. in which there was only *recitata* (as what the Pope had before concluded on) *capitula* y *lx, quæ aliis placabilia, aliis videbantur oneroſa, &c.* Which with the great extortion then exerciſed on the Prelats appeared in it, the little credit it gain'd in *England*, might juſtly cauſe z the *Antiquitates Britannicæ Eccleſiæ* write it to end *in riſum & ſtomma:* which words are none of *Mat. Paris*, but of the authors; though the marginal

y *Sic Mat. Paris anno* 1215. p. 272 26. *lege tame capitula lxx.* 2. p. 151, 19. *edit. Lond.*

ginal note againſt them in [a] the edition of *Hanau* 1605. hath given an occaſion of miſtake, which ſhould have been placed five lines lower, as it is in that * of *London* 1572. for that he there ſpeaks of the prelates borrowing to ſatisfy the papal avarice, is as Arch-Biſhop *Parker*, or whoſoever elſe compoſed thoſe lives, thus delivered in [b] Hiſtoria minori; *Tunc autem temporis ſolutum eſt concilium generale: Papa vero prælatis petentibus licentiam repatriandi minime conceſſit, immo à ſingulis auxilium in pecunia poſtulavit, quam receſſuri cum viaticis cogebantur à Mercatoribus curiæ* Romanæ *duris conditionibus mutuare, & ſic cum benedictione papali ad propria remearunt ---- per idem tempus inſtante feſto Paſchali*, &c.

[a] p. 158, 47.

* p. 151, 23.

[b] Mat. Paris. *hiſt. minor. Mſ.* p. 172. *& fol.* 86. *five* 89. *col.* 2. *Anno* 1216. *Vide Abbatum vitas pag.* 117, 39, 43.

36. This I have the rather tranſcribed, becauſe ſome are of opinion that Council ended 1215; which certainly it did not till towards Eaſter the year following; and then too abruptly, the Pope called away on a ſuddain for appeaſing the wars growing in *Italy*, the 16 July 1216, dyed: which makes it without either time when it began or ended, nothing being fully concluded but th' expedition againſt the Sarazins, for the recovery of the Holy land. Of this I have made the more particular mention, for that having given advertiſement of it to Doctor *Wats* (who hath with great ſincerity and judgment put out *Mat. Paris*) that he might clear the Arch-Biſhop in his *Adverſaria*, I know not by what fate he applies his note to pag. 138, 5. which refers to the Council held there by *Alexander* the 3. 1179. when it ſhould have been to pag. 272. or pag. 274. 6. and thinks he called the lives of the Abbots the *Hiſtoria minor*; who I am perſwaded * never ſaw that book, but did write candidly what he found in *Hiſtoria minori*.

* *See the preface to* Mat. Weſt *pag.* 5.

37. But that this Council was never received generally here is manifeſt, in that divers Canons in it were not of force in *England*, as the 3, the 41, the 46, to which I may add the very firſt: for though [c] *Peckham* 66 years after

[c] Lyndwood de ſumma Trinitate & fide Catholica, *cap. Altiſſimus.*

after did make a conſtitution in that point; yet he did, to my underſtanding, not ſpeak of Chriſts preſence in the Euchariſt ſo groſly, nor determine it to be by Tranſubſtantiation, as the firſt chapter of the other doth: but of that hereafter. And whoſoever ſhall peruſe [d] *Simon Sudburies* conſtitutions 1378 touching Confeſſion, will find ſo much variation from the 21 chapter of that Synod, as he cannot think he took that for a rule not to be varied from. To which I may add, that [e] *Peckham* provides the puniſhment of the negligent conſerver of the holy Sacrament to be *ſecundum regulam concilii generalis*, meaning the 20. chapter of this I ſpeak of; which had it been of force otherwiſe, he had no doubt commanded the due obſervance of it, not by his command added ſtrength to the rule there given. It is true, *Stephen Langton*, to ingratiate himſelf with *Rome* (whom he had ſo much diſpleaſed, as [f] the Pope intended to remove him from his Archbiſhoprick on the Kings deſire, but ſtopt on the interceſſion of the Court, and his being a Cardinal) did at the end of his Synod at *Oxford* 1222 enjoyn the Council * of *Lateran* held under Pope *Innocent*, in the paying of Tythes and other litigious * cauſes, to be obſerved, *& in Synodis epiſcopalibus conſtitutiones illius concilii, una cum iſtis, prout videbitur expedire [exponi volumus & recitari:]* which laſt words *Binius* hath changed, I know not on what authority, to *volumus obſervari*, when queſtionleſs the Engliſh took them for advice, not a Precept: and their little regard of them appears by the particulars mentioned. Neither doth *Lyndwood* make any mention of this part, though he have, I think, all the reſt were agreed there: & is it ſelf altogether omitted in ſome old copies of that Council I have ſeen; one

d Ibid. *de pœnitentiis & remiſſionibus.*

e *De cuſtodia Euchariſt. cap.* 2.

f Mat. Paris *Hiſt. minor. Anno* 1216. *Sect.* Barones *p.* 172. *col.* 2.

* *Which Council of Lateran this was, is uncertain, whether that under Innocentius* 2. *or this by Innocentius the* 3. *but moſt likely that under Innocent* 3. *at which himſelf was preſent.*

* *Binius reads* & aliis capitulis, *thereby adding* ſt *length to every chapter of that Council: when certain the reading ſhould be, according to ancient Copies,* in præſtatione Decimarum & aliis capitulis, *referring only to what paſſed there touching Tythes, and the payment of them by the* Ciſtertian *order, for land acquired after that time, which ſeveral Acts of Parliament confirmed afterwards. As for the other conſtitutions there propounded, he afterwards gives the rule with what caution they were to be expounded and recited, as they ſhould be held expedient, and not otherwiſe.*

one of which is joyned with the Mſs. Annals of *Burton* Abby in Sir *Thomas Cottons* Library. But the Acts of this Council being, with divers others, printed at the end of the conſtitutions of *Otho* and *Othobon* at *Paris* 1504, and ſince by *Binius* transferred into his third Tome the ſecond part: This is alledged by ſome men, as if what paſt at *Lateran* had been of undoubted validity with us; when no queſtion, what was done there hath never been taken here as the decrees of a General Council, like that of *Nice*, or *&c.* but of *Innocentius* 3^m^, as they ſtand in the Decretals (compiled by *Gregory* the 9^th^ his Nephew) with this Title, *Innocentius* 3. *in Concilio Lateranenſi*, as thoſe by him propounded, but not fully concluded in Counceil, according to *Platina*, and from which this Church varied as occaſion ſerved. Yet if any ſhall inſiſt this concluſion of 1222. to have been of greater validity than I ſpeak, I muſt add, that if it really were made with ſuch an intent by the Eccleſiaſticks, it cannot be thought to have obliged us more than that declaration of the Biſhops 1615 did the *French*; who[g] having *meurement delibere ſur la publication du concile de* Trente, *ont unanimment recognu & declarè, & recognoiſſent & declarent, eſtre obligez par leur devoir, & conſcience, a recevoir, come de fait ils ont receu & recoivent, le dit concile, & promettent l'obſerver entant qu'ils peuvent par leurs fonctions, & auctorite ſpirituele, & paſtorele*, and cauſed the ſame to be printed. Yet that of *Trent* had never validity in *France*, nor the other in *England*, notwithſtanding what thus paſt the Clergy.

g *Preuves des libertes de l'Egliſe de France p.* 325.

38. Neither was that other Council of *Lateran* under *Innocentius* 2. ever received here: though the Pope there[h] *inſignem ſacrorum Decretorum textum congeſſit*, yet *nimis abundans per univerſum orbem nequitia terrigenarum corda contra eccleſiaſtica ſcita obduravit*; from whence it proceeded, that when they were divulged they did no good, *quoniam à principibus & optimatibus regno-*

h Ordericus Vitalis *lib.* 13. *p.* 919. *B.*

*regnorum, cum ſubjectis plebibus, parvi penſa ſunt.* Now that it was never received here appears, (beſides this teſtimony) in that the marriage of a profeſſed Nun was [i] adjudged valid, contrary to the 7. Canon of it, and that too after it was regiſtred in the [k] Canon Law: which ſhews, this Church did neither admit the Canons of forreign Councils, nor the Canon Law it ſelf to alter their ancient cuſtoms; as is farther manifeſt by the ſtatute of *Merton* cap. 9. Neither was the Council of *Sardis* ever allowed in *England*, as is manifeſt by what before of Appeals, which yet by the Capitulars of [1] *Charls* the great and *Ludovicus Pius* was even in that paticular in *France*; which made [2] St. *Bernard* write of them, *in multas poſſe eas devenire perniciem, ſi non ſummo [moderamine actitentur: Appellatur de toto mundo ad te] id quidem*, &c. for ſo the place is to be read, as I have ſeen in two very good Mſs, and one late printed, not as in the former editions of him, as at *Paris* 1586. By theſe precedents the Reader may judg how neceſſary it was for the Parliament to make a diſtinction of Councils. Now in theſe with ſundry of as doubtful credit, being of late [l] printed at *Rome*, as if they were of equal value with the firſt, I have thought fit to inſtance. And here having made mention of *receiving Councils*, as if that added ſtrength unto them, it will be neceſſary to ſay ſomthing of that too, for the fuller clearing of this Church.

i *Regiſt. Iſlep. fol.* 165. b.
k *Apud* Gratian. *cauſ.* 27 *q.* 1. *cap.* 40.
1 *Carol. & Lud. Capit. lib.* 7. *cap.* 323.
2 *Bern. de conſideratione ad Eugenium, lib.* 3. *cap.* 2.
l *Concil. gen. Romæ*, 1608, 1612.

39. The Apoſtles as they ſhewed a pattern for [m] holding Councils to ſettle diſputes amongſt Chriſtians; ſo *Paul* and *Silas* in their travels delivering the [n] Decrees by them ordained to be kept by ſeveral Churches, ſhew'd it to be reaſonable, ſuch as were abſent ſhould receive what was done in any Synod, before they were obliged by it; and accordingly, in the primitive times, thoſe were not preſent at the holding a ſynod, had the reſults ſent or brought unto them after the concluſion taken, who did in their own Churches ſubſcribe (finding

m *Acts the* xv.
n *Acts* xvi, 4.

ing them juſt and pious) what the others had in Council agreed upon, and then repoſed them amongſt their Records, called by S *Hierom* [o] *Scrinia publica Eccleſiarum arcæ* &c. So [p] *Cecilian*, being preſent at *Nice*, brought to *Carthage* the Decrees there concluded, who ſubmitted unto them; and [q] S. *Athanaſius* of that Council ſays, *Huic Concilio univerſus orbis aſſenſum præbuit; & quanquam multæ habitæ ſunt Synodi, hujus tamen omnes ſunt memores, tum per* Dalmatiam, Dardaniam, *alias q; inſulas*, Siciliam, *&c. & pleriq; in* Arabia *hanc agnoverunt, & ſubſcriptione approbarunt, &c.* And of the [r] Council at *Sardis* it is recorded, Ὅσιος ὁ ἐπίσκοπος ἔγραψε, καὶ οὕτω πάντες· τῶν γεγραμμένων ἐν Σαρδικῇ οὗτος ὁ ἀπόστολος καὶ οἱ σὺν αὐτῷ μὴ συνθέντας ἅπασι, καὶ γράψαι καὶ αὐτοὶ σύμφωνοι τοῖς κεκριμένοις ἦν ἐν τῇ συνόδῳ γεγράφασι· καὶ ἦν ἄλλων τὰ ὀνόματα ὅτι ταῦτα, which I *Engliſh* thus; Oſius *the Biſhop ſubſcribed, and ſo did the reſt. Theſe things being copied out, the Synod in* Sardis *ſent to thoſe could not be preſent, who were of the ſame mind with what had been determined of thoſe ſubſcribed in the Synod; and of the other Biſhops theſe are the names.*

o Hieron. *adverſus Luciferianos To.* 2. *fol.* 52. a. *Paris* 1534.

p *Con.* 6. *Carthag. c.* 9.

q *Epiſt. ad* Aphros *interprete* Petro Nannio. *Paris* 1572. *col.* 537. c.

r *Concil. gen. pag.* 64. c.

40. After which [s] *Athanaſius* (from whom this Epiſtle is taken) adds, *qui igitur decretis ſubſcripſerunt ſunt iſti*-----*in univerſum* 344. Hence it grew, that though ſome Councils had but few at the holding of them, yet the ſubſcriptions were numerous. [t] *Baronius* obſerves the 5th Council at *Carthage* to have been held by 22 only; (I conceive it ſhould be 72.) yet had 217 ſubſcribers, which was after the ending of it, by Biſhops in their own Churches, when they admitted of it. So the [u] Synod of *Antioch* about 341. ſending their concluſions to abſent Churches, writ unto them, they did believe they would aſſent to what they had done, *& ea quæ viſa ſunt recta roborantes cum conſenſu ſancti Spiritus conſignabitis.* It is of no uſe to diſpute here, whether this were an *Arrian* or a Catholick Council: be it either, it ſtill denotes the manner then uſed; as doth the [x] third Council

s *Epiſt. ad Ægyptios, &c. col.* 424. a. b.

t *Tom.* 5. *anno* 419. *n.* 59.

u *Concil. Antioch. To.* 1. *Concil. in Proœm.*

x *Concil. Toler.* 3. *Sect. Conſtitemur. Tom. Concil.* 2.

cil of *Toledo* held *Anno* 589, which ſpeaks thus, *Conſtitutiones ſanctorum conciliorum*, Niceni, Epheſini, Conſtantinopolitani *vel* Chalcedonenſis, *quas gratiſſima aure audivimus, & conſenſione noſtra veras eſſe probavimus, de toto corde & de tota anima & de tota mente noſtra ſubſcripſimus*: and another held there, having received with the letters of Pope *Leo* the 2. the ſixth general Council, invited all the Prelates * of *Spain*, *ut prædicta ſynodalia inſtituta quæ miſerat, noſtrietiam vigoris manerent auctoritate ſuffulta, omnibuſque per nos ſub regno* Hiſpaniæ *conſiſtentibus patefcerent divulganda.*

* Baron. to. 8. *Anno* 685. n. 25.

41. By all this it is plain, the manner of former times was to diſperſe the Decrees of Councils to abſent Churches, who by ſubſcriptions were ſaid to have confirmed, and, ſo far as lay in them, by ſuffrage, to have given ſtrength to that ſuch meetings had agreed unto. And as Popes did thus confirm what other Biſhops had concluded in their Synods, ſo did they in like manner his. In the year 1095. *Urban* the 2. held a Council at *Clermont* in *Auvergne*, at which were preſent ſeveral Prelates of *Normandy*, who at their return brought letters from the Synod, upon which *William* Arch-Biſhop of *Roan* cauſed the *Norman* Biſhops to meet there, y who *capitula Synodi quæ apud* Clarum-montem *facta eſt unanimiter contemplati ſunt, ſcita quoque Apoſtolica confirma verunt.* It is true, the Pope being the Patriarch of moſt note in the world, and of greateſt dignity in the Weſt, uſually the Acts of forraign Councils were directed unto him, z which he diſperſed through *Italy* and other parts of *Europe*; but his approbation was not enough to oblige other Churches, till what came from him was by themſelves allowed: neither was this diſperſing ſo appropriated to his Papacy, as if there were never any other divulging of them; the ſecond Council of *Nice* held 787, or 788 as *Dicetо* accounts, was ſent from *Conſtantinople* to *Charls* the great, then

y Ordericus Vitalis *lib.* 9. *p.* 721. *B.*

z *Vide* Euſeb. Mediolanen. *poſt epiſt.* 52. Leonis.

then only *Rex Francorum*, and by him 792. hither, where it was rejected.

42. From hence it proceeded, that part of the Acts of one Council did not bind ſome Churches, which did others; as ſome parts of the Council of *Chalcedon* and *Epheſus* ſeem not to have been received in *Rome* in [a] S. *Gregories* time to which may be added ſome [b] Canons of the 7. Council. But I believe it will be hardly ſhewed from the ancients, that any Church, neither intervening in Council by proxy, nor that did after admit of it, were ever held concluded by any, though never ſo numerous. Certainly none was ever held of greater eſteem amongſt Catholicks than the Council of *Nice*; yet [c] S. *Auguſtine*, in his diſpute with an *Arrian*, confeſſes neither the Council of *Nice* ought to produce the *Arrian*, nor that held at *Ariminum* him, *ſed utriſque communibus teſtibus, res cum re, cauſa cum cauſa, ratio cum ratione concertet.* And [d] St. *Hilary*, comparing two Councils, one of 80. Biſhops which refuſed the word ὁμοούσιον, whith that of *Nice* which received it, ſays, *ſi contraria invicem ſenſerunt, debemus quaſi judices probare meliora*: ſo not only taking from them all infallibility, but allowing others to judge of their doings, before they ſubmitted unto their determinations.

a Gregor. *lib. 6. epiſt. 32 & lib. 7. epiſt. 47. Indict. 2.*

b *General. Concil. Roma, tom. 3. p. 684, 685. in margine.*

c *Contra Maximinum Arrianorum epiſt. lib. 3. cap. 14. to. 6. vide etiam de unitate Eccleſ. c. 16. Tom. 7.*

d *De Synodis adverſus Arrianos prope finem, p. 243.*

And this hath been the ſo conſtant obſervance in all times, as no age ever held the *Latin* obliged by the *Grecian* Synods which they have not received; neither doth the *Greek* Church to this day hold themſelves tyed by the determinations of *Florence*, or to the many other of the *Latin* touching the proceſſion of the holy Ghoſt, and other points in difference, to which they have not ſubmitted.

43. But for that the Acts of Councils, without temporal authority to inforce the obſervance of them, were no other than perſuaſive, Princes (either on the incitation of their Biſhops, or convinced of the juſtneſs and piety of what had paſt in thoſe Eccleſiaſtick Aſſemblies)

did often by their letters exhort, or by their laws command the observance of what resulted from them. So *Constantine*, after the Council of *Nice*, wrote that letter remains recorded in [d] *Socrates* and *Theodoret* to some absent Churches, for their admitting the resolutions of it: in which he tells them he had undertook that what the Romans had already, ἀσμένως τοῦτο καὶ ἡ ὑμετέρα προσδέξηται σύνεσις, *that their judgment would willingly receive.* [e] And *Gratian*, *Valentinian*, *Theodosius* did in the year 381. by their rescripts establish the same Council, as [f] *Justinian* by the law before mentioned did all the four first; which I take to be the same * St *Augustin* calls inserting them *actis proconsularibus*.

d Socrat. *lib.* 1. *cap.* 6. Theodor. *lib.* 1. *cap.* 10.

e *Cod. Theodos. de fide Cathol. leg.* 3. *& de Haret. leg.* 6.

f *n.* 31.

* *To.* 8. *in Psal.* 57.

44. Of later times Popes, having by several arts acquired the greatest part of Episcopal power to be devolved to them, have likewise claimed it as a right belonging to the Papacy, not only to call Councils, but to determine which are general, who are to vote in them; and therefore [g] though properly, *ordinarie*, none but Bishops have there (say they) *jus suffragii*, yet *ex privilegio & consuetudine* Cardinals, Abbats, and Generals of Orders are to be allowed voice; and that there needs no other than the Popes confirmation in *Rome*, to oblige all Christians to the observance of any he shall hold out for such, as *Pius* 4tus, by his bull of the 18 July 1564. declared, all in the Council of *Trent juris positivi* did the world from the first of *May* before, &c, And though all History agree, and the very Councils themselves assure us, the causing the *East* and *West* to meet in those assemblies, to have been ever done by Emperours, and that Princes on occasions have called the Clergy within their estates together for composing disputes in religion; yet the bare affirmation, without any real proof, hath so far prevailed with some men, as to esteem him little other than an Heretick shall maintain the contrary,

g Bellarm. *de concil. lib.* 1. *c.* 15. *Sect. At Catholicorum.*

45. But

45. But Kings have not ſo eaſily parted with theſe rights: for the State of *France*, notwithſtanding the many ſollicitations of the Popes from abroad, and their Clergy at home, hath not hitherto been induced to approve what was determined at *Trent*; however you ſhall hardly meet with any of the *Roman* party, but he will tell you that the points of faith there agreed upon, are received in *France*, but not of manners, and government: which is in a kind true, yet contains a notable fallacy; for the Eccleſiaſticks of that kingdom finding the difficulty of procuring that Council to paſs, have in their provincial Synods, [h] *conſpiratione quadam, venia in quaque Diœceſi cogendi Synodos impetrata*, inſerted the greateſt part of the doctrinal points of it into thoſe Councils; ſo that it is truth, they are indeed there received, yet not for that they were concluded upon in *Trent*, but becauſe Epiſcopal Councils, have each in their Dioceſes eſtabliſht what they could perſwade *nec regibus, nec ſupremis Parlamentorum curiis, ut Synodi iſtius* Canones *in acta ſua referrent, & obſervandos publicarent.* Neither hath the Council of *Florence* under *Eugenius* 4^tus, or of *Lateran* held by *Julius* the 2. and *Leo* the 10, been hitherto allowed by *France* or *England*, where the moſt zealouſly affected to *Rome*, as S^r *Thomas Moore*, have [i] maintained the ſuperiority of a general Council above the Pope [k] in oppoſition to either of them; though [l] that be a point rather of faith than manners. Upon which grounds, thoſe Councils before ſpoken of did not bind here, farther than what was in them hath been made good by provincial Synods without the Nation.

By all which it being certain, neither this Church nor Kingdom hath been tyed by the Act of any forraign council not admitted here, and being perhaps a thing of ſome intricacy, what determinations the Realm had received after the four firſt general Councils, her Majeſty took the way of receiving them as abſolutely neceſſary,

h Bochellius inſtituti operis ratio.

i See his letter to Cromwel at the end of his works, and the original in Sr Thom. cottons Library.

k Concil. Florent. Seſſ. 25. Concil. gen. Roma tom 4. p. 584. ibid. Concil. Later. ſub. Julio 2. & Leone 10. Seſſ. 11. p. 175. col. 2.

l Bellar. de concil. lib. 2. cap. 17. Seſſ. Ad hunc locum.

[m] 1 *Eliz. c.* 1. sary, but others with such limitations as are in [m] the statute, and for the future, nothing to be Heresy, but what should be determined to be such by the Parliament, with the assent of the Convocation.

## CHAP. IX.

### *Of the farther Proceeding of Queen* Elizabeth *in the Reformation.*

1. THings thus settled in 1° *Eliz.* the Parliament ended, the Liturgy of the Church, commonly called the Book of Common-Prayer, Reformed, and published, the Queen, [a] following the examples of her Predecessors, and relying on the ancient Symbols as the Doctrine of the Catholick Church, gave command the *Creed*, the *Pater-noster*, and *Ten Commandments*, (as the grounds for a Christian to believe, and frame his life after) should be taught her Subjects, and none presume to come to the Lords Table before they could perfectly say them in *English*.

[a] *Canones dati sub Eadgaro & legibus ejus annexi, p.* 67. *Leg. Canut. cap.* 22. *p.* 105. *See before, cap.* 4. *n.* 6. *Sect.* 3.

2. Hitherto to my understanding her Majesty had not done any thing not warranted by the practice of her Predecessors, nor that could be justly interpreted a departing from the Apostolick Faith, or indeed from *Rome* it self; where she kept an Agent, [b] till *Paulus* 4^tus during the Parliament, commanded him to relinquish the title of Ambassadour, and not to stir out of *Rome*. So that if there were any departure, it must needs be the Pope made it, not the *English*; (who was so incensed, he would not at first acknowledge her Queen, nor after permit any from her in the quality of Ambassadour to reside with him, though she had not done any thing but according to the

[b] Camden. *Annal. Anno* 1559.

the ancient rights of the Kingdom, and the uſages of former Princes.) But ſuppoſe (which will never be proved) her Majeſty to have gone farther than was fit for a Chriſtian Prince in ſettling Religion, certainly ſhe had juſt cauſe to conceive ſhe might do it, having ſo many precedents of her anceſtors in the caſe. Yet *Paulus* quartus breaks off all entercourſe: ſome of his party would not crown her, then ſpake of excommunicating of her; indignities no Prince but muſt be ſenſible of.

3. Yet it ſeems, the firſt heat paſt, the Queens moderation was better received at *Rome* than at home: where the Pope, however a violent heady man, conſidering no doubt his own loſs in breaking off all commerce with ſo potent a Kingdom, [c] began to hearken to terms of accommodation, and was content things ſhould ſtand as they are, the Queen acknowledging his Primacy, and the reformation from him. But his death enſuing the 18. of *Auguſt* 1559. left the deſign to be proſecuted by his ſucceſſor *Pius* 4^tus^, who by letters (ſent by *Vincentius Parpalia*, a perſon of great experience, employed by Cardinal *Poole* in his former negotiations, and of late in that hither,) of the 5. of *May* 1560. directed *chariſſimæ in Chriſto filiæ Elizabethæ Reginæ Angliæ*, did aſſure her, [d] *omnia de nobis tibi pollicearè, quæ non modo ad animæ tuæ ſalutem conſervandam, ſed etiam ad dignitatem regiam ſtabiliendam & confirmandam, pro authoritate, pro loco ac munere quod nobis à Deo commiſſum fuit, à nobis deſiderares*, &c. Upon this, and their relations who then lived, and had part in the action, the *Engliſh* affirm *Pius* 4^tus^ would have confirmed the Liturgy of the *Church* of *England*: and indeed how can any imagine other? for doubtleſs nothing could have been more to her diſhonour, than ſo ſuddainly to have changed what ſhe had with ſo great conſideration eſtabliſht; and the Pope aſſuring her, ſhe might promiſe her ſelf from him all he could do, I know not what leſs or other he could expect

c *Fortuna Turii, p. 142.*

d *In Camdeni Annal. Anno 1560.*

pect ſhe would ask. But where Sir *Edward Cook*, in his charge at *Norwich*, as it is now Printed, ſays, this offer came from *Pius* 5^tus^, I conceive it a miſtake, and ſhould have been *Pius* 4^tus^, (as in another place he names *Clement* the 9. who yet never was, for *Clement* the 8.) and the reſt of the narration there not to be without abſurdities, and to be one of thoſe deſerves the Authors cenſure, when he ſays, [c] *there is no one period* in the whole *expreſſed in the ſort and ſenſe that he delivered it*; for certainly *Pius* 5^tus^ from his coming to the Popedom 1566, rather ſought by raiſing againſt her forraign power abroad, and domeſtick commotions at home, to force her to his obedience, than by ſuch civil ways as we now ſpeak of to allure her; though the thing it ſelf is no queſtion true, how-ever the perſon that offered it be miſtaken in ſome circumſtances.

[c] *Præfat. lib. 7. relat.*

4. They [f] that make a difficulty in believing this, object it to have been firſt divulged 1606. 46 years after the profer of it. That Sr *Edward Cook* averred to have received it from the Queen her ſelf, not then alive to contradict him. But for my part I confeſs I find no ſcruple in it, for I have ever obſerved the wiſdom of that Court, to give what it could neither ſell nor keep; as *Paulus* 4^tus^ did the Kingdom of *Ireland* to Queen *Mary*, admitted the five Biſhopricks erected by her Father, approved the diſſolution of the Monaſteries made by him, *&c.* of which nature no queſtion this was. For the being firſt mentioned 46 years after, that is not ſo long a time but many might remember: and I my ſelf have received it from ſuch as I cannot doubt of it, they having had it from perſons of nigh Relation unto them who were actors in the managing of the buſineſs. Beſides, the thing it ſelf was in effect Printed many years before; for he [g] that made the anſwer to *Saunders* his ſeventh book, *de viſibili Monarchia*, [h] who it ſeems had been very careful to gather the beginnings of Queen *Elizabeth*, that there

[f] *Parallel. Torti & Tortoris, p.* 241.

[g] Servi fidelis ſubdito infideli reſponſio, *apud* Johannem Dayum 1573.

[h] *Pag* 121.

there might be an exact history of her, *tandem aliquando, quia omnia acta diligenter observavit, qui summis Reipublicæ negotiis consulto interfuit,* [1] relates it thus.

5. That a noble man of this Country being about the beginning of the Queens reign at *Rome*, *Pius* 4^tus^ asked him of her Majesties casting his authority out of *England*, who made answer that she did it being perswaded by testimonies of Scripture, and the laws of the Realm, *nullam illius esse in terra aliena jurisdictionem.* Which the Pope seemed not to believe, her Majesty being wise and learned, but did rather think the sentence of that Court against her Mothers marriage to be the true cause; which he did promise not only to retract, *sed in ejus gratiam quæcunque possum præterea facturum, dum illa ad nostram Ecclesiam se recipiat, & debitum mihi primatus titulum reddat*, and then adds, *exant apud nos articuli Abbatis* * Sanctæ salutis *manu conscripti, extant Cardinalis* Moronæ *literæ, quibus nobilem illum vehementer hortabatur, ut eam rem nervis omnibus apud reginam nostram sollicitaret. Extant hodie nobilium nostrorum aliquot, quibus Papa multa aureorum millia pollicitus est, ut istius amicitiæ atque fœderis inter* Romanam *Cathedram & Elizabetham serenissimam authores essent.* This I have cited the more at large, for that *Camden* seems to think, what the Abbot of St. *Saviour* propounded was not in writing, and because it being Printed seven years before the Cardinal *Moronas* death, by whose privity (as Protector of the *English*) this negotiation past, without any contradiction from *Rome*, there can no doubt be made of the truth of it. And assuredly, some who have conveniency and leisure may find more of it than hath been yet divulged: for I no way believe the Bishop of *Winchester* would have been induced to write, it did *constare* of *Paulus* 4^tus^; nor the Queen her self, and divers others of those times, persons of honour and worth, (with some of which I my self have spoken) have affirmed it for an undoubted truth,

[1] *Ibid. p. 70. 71. the book is not printed with pages, but they are added with a pen.*

* *Sancti Salvatoris* Camden *Anno 1560. calls him, who in the year 1562 seems to have been employed by the said Pope into* France. *Hist. Concil. Trid. lib. 6. p. 501. and of whom mention is made in the life of Cardinal* Poole.

truth, did not somewhat more remain (or at least had formerly been) than a single letter of *Pius* 4^th^, which apparently had reference to matters then of greater privacy. And there I hold it not unworthy a place, that I my self talking sometime with an *Italian* gentleman (verst in publick affairs) of this offer from the Pope, he made much scruple of believing it; but it being in a place where books were at hand, I shew'd him on what ground I speak, and asked him if he thought men could be Devils to write such an odious lie, had it not been so. *Well* (says he) *if this were heard in* Rome *amongst religious men, it would never gain credit; but with such as have in their hands the* Maneggi della corte, (for that was his expression) *it may be held true.*

6. Indeed, the former author doth not express, (as perhaps then not so fit to be publisht) the particulars those articles did contain were writ with the Abbots own hand; (which later pens have divulged) but that, in general, it should be any thing lay in the Popes power, on her acknowledging his primacy: and certain no other could by him have been propounded to her, nor by her with honour accepted, than that of his allowing the *English* Liturgy: so that they who agree he did by his Agent (according to his letter) make propositions unto her, must instance in some particulars, not dishonourable to her self and Kingdom to accept, or allow what these writers affirm to have been them. And I have seen, and heard weighty considerations, why her Majesty could not admit her own reformation from *Rome*; some with reference to this Church at home, as that it had been a tacite acknowledgment it could not have reformed it self, which had been contrary to all former precedents; others to the state of Christendom as it then stood in *Scotland*, *Germany*, and *France*: but with this I have not took upon me to meddle here.

7. Yet what the Queen did upon this message, seems

to

to have given no very ill ſatisfaction; for [i] Sr *Edw. Carne*, then in *Rome*, adviſed the Pope the ſame year to invite her to the Council of *Trent*, promiſing him half the Kingdom with her own liking would receive his meſſenger; which yet was found otherwiſe: the reaſons why, are ſome toucht by Hiſtorians, and may more at large be ſeen in Sr *Nicholas Throgmortons* negotiations, then her Ambaſſador in *France*. Certainly [k] the *French* were not altogether out of an opinion (or at leaſt would have it thought ſo) of her ſending to the Synod; which the Pope, however he invited her, was not a little troubled at. But the great combination of the Popiſh party, ſupported by *France* againſt *England*, made her ſee ſhe could expect no good where they were predominant: upon which ſhe cauſed the divines of her Kingdom in council to conſider of a juſt and lawful reformation; who meeting 1562, reviving the Acts of a Synod held at *London* ten years before under *Ed.* the 6th, and explaining ſome few expreſſions, and omitting ſome points rather of diſpute than faith, did conclude on 39 articles, ſo juſt, ſo moderate, ſo fully agreeing with the doctrine of the primitive fathers, and with the ancient tenets and practice of this very Church in the times of the *Britons* and *Saxons*, as if any ſhall ſay no Clergy in any age or place have held out a more exact rule, he may be eaſilier contradicted, than juſtly blamed, or confuted.

i *Hiſt. Concil. Trident. Anno* 1560. *p* 446.

k *Ib. p.* 528. *pag.* 528.

8. For having laid their ground, *that* [l] *holy Scripture containeth all things neceſſary to ſalvation, ſo that whatſoever is not read therein, nor may be proved thereby, is not to be required of any man, that it ſhould be believed as an article of Faith*, &c. they do upon that Baſis eſtabliſh the doctrine of the three Creeds, the Nicen, Athanaſian, and Apoſtles, heretofore ever held to contain *Eccleſiarum omnium fidem*, and that the [m] *Romiſh Doctrine of Purga-*

l *art.* 6.

m *art.* 22.

*of Purgatory, Pardons, worshiping and adoration of Images Relicks, Invocation of Saints, &c. is not warranted by Scripture*, that is, are no articles of Faith: and then proceed to settle such other things as are *juris positivi*, with so just a moderation, as is hardly elsewhere to be found; changing nothing for the general, but where the practice of their own ancestors did justify their doings, without at all extending themselves to any thing where they had not antiquity their warrant.

9. Following which, they restored the cup, having the Council of *Clermont* under *Urban* the 2, that [n] *Corpus Dominicum & sanguis singulatim accipiantur*, the Command of [o] *Paschali* the 2. and the practice of the *English* Church, where sickly people, women as well as men, were to be provided of a pipe to receive it by; as was [p] expressly injoined the order of the *Gilbertines* about 1200. The thing being already printed, I need here repeat no more, but only add, that this permission of theirs was no other but a restoring to *minores ecclesias*, that is Parochial or Country Churches, that liberty *Peckham* had deprived them of not 300 years before. For I do not find any prohibition, but the Lay might ever have been partakers of it with us *in majoribus*, that is Cathedral Churches; for [q] *Lyndwood* in his gloss upon the *English* constitutions about 1430, propounds this question, *Sed numquid in istis ecclesiis Cathedralibus, & aliis majoribus, liceat non celebrantibus dum communicant recipere sanguinem Christi in specie vini? videtur ex hac litera, quod sic, argumento sumpto à contrario sensu, quod est in jure fortissimum, ut &c.* —— *& hoc bene putarem verum; saltem quo administrantes sacerdoti ministranti, &c.*

10. For the permitting of Matrimony to the Clergy, it is undoubted all here had the liberty of marrying, before [r] *Lanfrank* in a Council at *Worcester* 1076 did rather advise than command the contrary; which *Huntington* (who was himself the [s] son of one in holy orders) says

n *Apud* Ordericum Vitalem *Anno* 1095. p. 720. a.

o *Apud* Baron. to. 12. *Anno* 1118. n. 2. *in nonnullis in Appendice.*

p *Statuta* Gilbertinorum *Mss. de canonicis cap.* 33. *vide adversaria Doctoris* Watsii *ad* Mat. Paris p. 9. *lin.* 6.

q De summa Trinitate & fide Catholica, *cap.* Altissimus, *verbo* minoribus ecclesiis.

r *Antiquit. Britan. p.* 98, 10. *in Lanfranci vita.*

s Hunt. *fol.* 217. b. 26. & a. 10.

ſays was firſt prohibited by *Anſelm* 1102. But [t] *multi Presbyterorum ſtatuta Concilii Londonienſis ---- poſtponentes, ſuas fœminas retinebant, aut certe duxerant quas prius non habebant*, &c. ſo that his conſtitutions came quickly neglected, Prieſts both marrying, and retaining their Wives. At which though the King were [u] ſomewhat diſpleaſed, yet ſoon after [x] he took a piece of money of them for it, and they kept them by his leave. Divers conſtitutions were after made by ſeveral Arch-Biſhops and Legats in the point, as by *Steph. Langton* at *Oxford* 1222, regiſtred by *Lyndwood*: *yet it is manifeſt they did ſecretly contract Marriage, which ſome are of opinion they continued till towards the end of *Edward* the 3. Reign. This I am the rather induced to believe out of that in [z] *Knighton*, that **John de Aliſtwerl* Clerk was ſlain by his wife and ſervant in his own houſe at *Leiceſter* 1344. for which fact ſhe was burnt, and he hanged. Now I conceive, had ſhe been only his concubine, not his ſervant, ſhe had not ſuffer'd by the judgment of burning for the murther, but hanging only: neither can I interpret the word *Clericus* for other than one in holy Orders, prohibited marriage by the Canons of *Rome*; though I know, *large loquendo*, as our [a] *Lyndwood* hath it, *omnes in Eccleſia ad divinum officium ordinati* are ſometimes ſo ſtiled, [b] of which ſuch as were *infra ſubdiaconatum* might retain their wives, but thoſe were *in ſubdiaconatu* or above were to quit them. But the Canons yet remaining made at ſundry times, from *Lanfranc* even to *Chichly*, by the ſpace of more than 300 years, enough aſſure us this point of *Celibat* was not eaſily impoſed on the *Engliſh* Clergy, and aſſures us ſuch as laid it might take it off again.

11. For Images, if the *Saxons* had any uſe at all of them in their Churches (for ornament, for hiſtory, [c] to which end S. *Gregory* holds they might be permitted, for memorials of holy men departed, (as we have of late

t Eadmer, p. 94, 48.

u Eadmer. p. 105, 27.

x Hunt. fol. 220, a. 26. *Saxon. Chron. Petroburg Mſ.*

y De cohabitatione cleric. & mulierum, & de Clericis conjugatis, * *Conſtit. Othonis cap.* Innotuit.

z *Col.* 2584. 7. Clericus apud *Leiceſtriam.*

* *Quare whether this were not the Prieſt of the town that was thus inhabiting there.*

a De locato & conducto; *cap.* Vendentes, *verbo* Si quis Clericus.

b Lynd. *de clericis conjugatis, cap.* 1. *Vide Monaſticum Anglicanum, p.* 899. & p. 900.

c Greg. *lib.* 7. *epiſt.* 109 & *lib.* 9. *epiſt.* 9.

seen) & they being only thus applied, I conceive, [d] with the Bishop of *Salisbury*, the weight of the question not so great,) yet it was a thing voluntary, no command of the Churches injoyning it, till after the Conquest. And here the question is not, whether *Augustine* might or did bring the picture of our Saviours Cross in his Banner, as most Protestants yet retain it; but whether he placed them in the Church, with an intent to have worship of any kind attributed unto them: for which purpose, I confess, I have not heard of them till many years after; for the vision of *Egwinus*, and the Council of *London* setting up of Images being made good (so far as I know) by no author of any antiquity, I cannot but take it [e] with *Baronius* for a meer figment.

12. It is certain, [f] 792 the Bishops of *England* declared their dissent from the second Council of *Nice* in point of Images, held only four years before, according to [g] *Diceto*: and where some interpret that they did only condemn the worship the *Greeks* call λατρεια, by using the *Latin* word *adorare*; it cannot be denied but they did reject that [h] πρωτην προσκυνησιν the Oriental Bishops had established, in which sense they used the word *adorare* which is often, as well in holy Writ as by human Authors, taken for that reverence is given a creature, as for the religious duty we only owe to the Divine Majesty: see *Gen.* xxiii. 7, 12. *Ingulphus*, a writer not long after, [m] Constantinopolim *pervenimus, ubi* Alexim *imperatorem adorantes*, &c. So *Arundel* in his constitutions, * *adorationem crucis gloriosæ.*

13. To this narrative [n] *Harpesfield* gives the title of *commentitia & insulsa fabula*, and thinks it not writ by *Sim. Dunelmensis* or *Mat. Westminster* (he might have added *Hoveden*, the Ms. [o] History of *Rochester*,) but that it was anciently inserted into them. For answer to which, he would be desired to produce any one old copy without it, not mangled, so as it doth *prodere furtum* by wanting it:

[d] *Reply to Harding, Art.* 14. *in principio.*

[e] *To.* 8. *anno* 714. *n.* 2.

[f] Simeon Dunelm. *col.* 111, 50. Hoveden, *fol.* 232. b. 3. Mat. West. *Anno* 793. *pag.* 283.

[g] *Anno* 788. *Ap.* Baron. *anno* 787. *tom.* 9. *n.* 10. 38.

[h] *Concil. gen. Rom. Synod.* 7. *pag.* 661, *lin. ult.*

[m] Ingulph. *fol.* 514. *a.* 17.

* Lyndwood *de Hæret. cap.* Nullus quoque.

[n] *Seculo* 8. *cap.* 5. *p.* 126. 9.

[o] *In Bibliotheca Cotton.*

it: I have ſeen divers of *Hoveden* Mſs. ſome of *Math. Weſt.* but never did one wherein it was not found, not in the Margin but in the text it ſelf, and ſo it is *Dunelmenſis* his Ms. at *Bennet* Colledge in *Cambridge*. For my part, I do not know how any thing we miſlike in Hiſtory, may not after this manner be rejected, if a relation gathered from monuments of an elder date, which are periſht, yet cited by one who lived not ſo long after the time he ſpeaks of, but they might well come to his hands, whom we find very ſincere in ſuch citations as yet remain out of more old authors than himſelf, ever eſteemed of good credit in the Church of God, and in his narration followed *ad verbum* by thoſe who writing of the ſame matter ſucceeded him, I confeſs, I ſay, if this may be caſt away, as a lying & fooliſh fable, I know not what ſhall gain credit. But what will men not lay hold on in a deſperat ſhipwrack; I remember [q] *Baronius* preſt with the teſtimony of *Luitprandus* in the depoſition of *John* the 12. by imperial authority, makes no queſtion of denying the five laſt chapters of his 6. book to have been written by him, though never doubted for more than 600 years ſince he lived.

[q] To. 10. *anno* 963. 2, 3. *Anno.* 968. 10.

14. Another [q] Doctor, I confeſs, ſeems to give a more difficult objection; that [r] *Alcuinus*, who is ſaid to have writ againſt the ſecond *Nicen* Council in the point of Images, doth in his book *de divinis officiis* ſay, *proſternimur corpore ante crucem, mente ante Deum; veneramur crucem per quam redempti ſumus* &c. and this from an author had written againſt Images, he would have imply a veneration of them (even in his time who oppoſed them) by the *Engliſh* Church. But what hath the reverence of the Croſs to do with the worſhip of Images; it is not to be denyed but Chriſtians, in their talk and writings, did extol and magnifie the Croſs, forced thereunto by the Gentiles, who ſpake ignominiouſly of him that dyed upon it; yet I believe it will be difficult to ſhew any Law

[q] Richard Smith *Archiepiſc.* Chalcedon. *Floret biſt Anglic. lib.* 2. *cap* 7. *p.* 134.

[r] *De Divinis officiis, dict Paraſceu.*

on

or Canon before the Conqueſt, injoyning the uſe, much leſs that attributed any Religious Worſhip unto Images.

15. It is true, the [s] Council of *Celicuith* 816. did charge *unicuique Epiſcopo, ut habeat depictam in pariete oratorii, aut in tabula, vel etiam in altaribus, quibus ſanctis ſint utraque dedicata*, &c. which was clearly for memorial and ornament; as it hath been very common in ſome Churches, to have on the wall the Image of Queen *Elizabeth*, and ſuch as have built an Iſle or window, to have their Statue or Picture ſet up in it, which in ſome parts perhaps remain to this preſent; yet no man ever held any religious duty fit to be given them, nor any man compell'd to ſet them up. Now that there was no precept of the Church commanding their uſe, I ſpeak [t] from the rules of *Sempringham* about 1148. that doubtleſs did not vary from the general practice of Chriſtians here, yet hath this expreſs ſtatute; *Sculpturæ vel picturæ ſuperfluæ in Eccleſiis noſtris ſeu in officinis aliquibus Monaſterii ne fiant interdicimus, quia dum talibus intenditur, utilitas bonæ meditationis vel diſciplinæ religioſæ gravitatis ſæpe negligitur: cruces tamen pictas quæ ſunt ligneæ habemus.* So that it ſeems to me they did account all pictures ſo ſuperfluous as not to have them, but only painted croſſes: and this was one of the firſt foundation. And in another [u] place, which I take to be ſomewhat after, the buying of them and ſilk, as things indifferent, are alike interdicted; yet a direction how to beſtow any thing of that nature ſhould be left them: but ſee the words; *Nihil de ſerico ematur à noſtris vel de noſtro ad noſtrorum opus, vel ad aliquid religioni contrarium, & ſeculi vanitatibus amminiculum, nec etiam ad quodlibet ſacerdotale indumentum, niſi conſtet eſſe neceſſarium: Si vero datur, ſecundum arbitrium* Prioris *omnium communi utilitati & uſui mancipetur, hoc idem de* Yconiis *vel aliis* ſculptilibus *dicimus, quæ ad Beatæ* Mariæ *Virginis vel aliorum ſanctorum ſunt fabricata memoriam;*

[s] *Concil.* Spelm. *cap.* 2. *p.* 328.

[t] Inſtitutiones Mſs. beati *Gilberti* & ſucceſſorum ejus per capitula generalia inſtitutæ; de exordio, ordinatione, inſtitutione ordinis Canonicorum, Sanctimonialium, fratrum & ſororum laicarum ordinis de *Sempringham. de canonicis, cap.* 15. *Sect. Sculpturæ.*

[u] *De fratribus cap.* 13.

*quæ*

*quæ tamen gratis* * *grata, prout de ſerico prædiximus, ad ſororum altare, vel hoſpitium, vel alio apto loco honeſte ponenda decernimus.* So that it is apparent then their uſe was eſteemed no other than that of ſilk; and theſe two articles ſeem to have been reſolved on nigh the firſt foundation (being in an hand differing from ſome other I ſhall mention) by the Founder himſelf.

* *Sic Mſs. ſed lege* gratis data, *as it is in other places (as you will ſee hereafter) repeated.*

16. In the year 1200 the houſe of *Sixle* or *Sixhil* in *Lincolnſhire* was viſited by the Abbat of * *Waredune*, as Commiſſioner of [x] *Otho* the Popes Legat; where about 20 articles were concluded for the government of the Order: the fifth of which, though it gave ſome more liberty than the former, yet was not without reſtraint: but take it from an hand of thoſe times. *Anno gratiæ* Mcc *in viſitatione facta de* Sixl' *per Abbatem de* Wardun' *auctoritate Domini* Otonis *Legati, ſtatuta ſunt hæc firmiter obſervanda Imprimis*, &c. cap. 5. *Item inhibetur ne picturarum varietas aut ſuperfluitas ſculpturarum de cætero fieri permittatur, nec liceat alicubi iconias haberi, nec imagines, præter imaginem Salvatoris & [y] beatæ* Mariæ, *& Sancti* Johannis *Evangeliſtæ.* Hitherto queſtionleſs, the Church of *England* following the doctrine of [y] St. *Gregory*, had been taught by teſtimonies of holy writ, that *omne manufactum adorare non liceat*; and though they might be lawfully made, yet by all means to avoid the worſhip of them: but ſee the progreſs.

* Wardon or Wardun *was a monaſtery of the* Ciſtertian *Order in* Bedfordſhire.

x *Quare whether this were that Otho was after Cardinal, viz. in* September, 1227.

y *Lib. 9. Epiſt. 9. Indict. 4.*

17. Sixty eight years after this, *Othobon*, being the Popes Legate in *England*, did in his own perſon viſit the chief houſe of this Order, and committed the others to *Rodulphus* de *Huntedune*; the ſaid Cardinals Chaplain, and Penitentiary; who aſſociating to himſelf one *Richard* * general Inquiſitor of the Order of *Semplingham*, did in the year 1268. conclude upon 74 or 75 heads or chapters for the government of them; the 54 of which, under the title *de imaginibus habendis*, is this:

* *Generali ejuſdem ordinis de* Semplingham *ſcrutatore.*

*Item, cum, ſecundum* Johannem Damaſcenum, *imagi-*

*nis honor ad prototypum, id eſt, ad eum cujus eſt imago pertineat, ad inſtantiam Monialium, & earum devotionem ferventius excitandam, concedantur eis imagines crucifixi & beatæ Mariæ & ſancti* Johannis *Evangeliſtæ, & quod poſſint habere in quolibet altari dedicato imaginem ipſius ſancti in cujus honore altare dedicatum eſt. Si tamen gratis detur eiſdem, ſicut beatus* * G. *de ſerico & de imaginibus duxit ſtatuendum, & celebretur ipſo die feſtivitatis illius ſancti, & die dedicationis ejuſdem altaris, miſſa ad dicta altaria, etiamſi ſint infra clauſuram monialium.* Thus they.

* *Gilbertus.*

18. By which it is manifeſt, this Kingdom had not then received * the ſeventh Council; for if they had, there can be no thought they would have built their Article upon *Damaſcens* opinion only. But by all theſe we may ſee Images were brought into this Church by degrees, by little and little: firſt they were to have none, only wooden croſſes were tolerated; then they might not buy any, but being given they might accept the Image of our Lady and other Saints; then an inhibition of all Saints, except *our Saviour*, the *Bleſſed Virgin*, and St *John* the Evangeliſt, to which was added the image of that Saint their Altars were dedicated unto, and theſe only by conceſſion, not bought, but given. So that it is plain, they were then taken for things only indifferent, as ſilk, which they might uſe or be without, no proceſſions, bowings, kiſſing, &c. of them preſcribed; but how the practice was afterward, that chapter of *Arundel* regiſtred by *Lyndwood* may tell you, which becauſe it is long, I ſhall not farther repeat, it being printed, than to add that it is in him, lib. 5. de *Magiſtris*, cap. *Nullus quoque*: and in another place he propounds this queſtion, [z] *Numquid imago* Chriſti *ſit adoranda cultu latriæ?* and reſolves, *ſi conſideretur ut imago, tunc quia idem motus eſt in imaginem in quantum eſt imago & imaginatum, unus honor debetur imagini & imaginato; & ideo cum* Chriſtus *latria*

* *Concil. Nicen. 2.*

[z] Lyndwood *de Eccleſiis ædificandis* cap. ut parochiani, verbo Imaginis.

*tria adoretur, ejus imago debet similiter latria adorari. Nec obstat Exod.* xxvi. *ubi dicitur, non facies tibi imaginem nec sculptam similitudinem; quia illud pro eo tempore erat prohibitum quo Deus humanam naturam non assumpserat,* &c.

19. The Synod at *Westminster* finding things in this posture, and their retention in many parts to have been joyned with a great abuse, if not impiety, took a middle course; first to condemn all manner of adoration or worship of them, (and therefore every *Sculptile* had been removed out of Churches) but whereas some use might be made of them for remembrance of histories past, to retain in sundry parts such windows and pictures, as might without offence instruct the ignorant in several passages not unworthily preserved: which if any man have since been offended at, it must be on other grounds than I understand.

20. As they proceeded with this circumspection, not to depart from the primitive Church in matters *juris positivi*, so did they take no less care in points of opinion; for having declared which were the books of holy Scripture, they did not absolutely reject the use of the other, though they had been [a] taught by the Doctrine [b] of St. *Hieron* and [c] St. *Gregory*, not to repute them *in Canone*, but to admit them *quia fidem & religionem ædificant*, or, as they [d] say, *for example of life, and instruction of manners.*

21. For praying to Saints, however the *Saxons* might honor holy men departed, *eo cultu dilectionis & societatis quo & in hac vita coluntur homines*, as [e] S. *Augustine* speaks, (which what it is he explains elsewhere) yet I am hardly perswaded to think they did admit any publick praying to them in the Church, for I have seen and perused three ancient *Saxon* Psalters full of prayers, but no one petition to any Saint whatsoever. [f] *Eadmerus* says the report went of *W*m the second, that *crederet, & publica voce asseveret, nullum sanctorum cuiquam apud De-*

a Johan. Sarisb. *Epist.* 172. p. 281, 285. Walden. *tom* 1. *lib.* 2. *art.* 2. *cap.* 22. n. 2. *fol.* 203. a. *col.* 2. *edit Venet.* 1571.

b *Præfat. in proverb. Salomonis Tom.* 3. *fol.* 9 c.

c S. Gregor. *Moral. lib.* 19. *cap.* 17.

d *Art.* 6.

e *Contra Faustum Manichæum lib.* 20. *cap.* 21. *to.* 6.

f *Lib.* 2. p. 48. 1.

*um posse prodesse; & ideo nec se velle, nec aliquem sapientem debere beatum* Petrum *interpellare:* yet he doth not censure this as Heretical, but only *mentis elatio.* [g] *Gabriel Biel* long after confesseth in his time, some Christians as well as Hereticks were deceived, in thinking Saints departed *nobis auxiliari nec meritis possunt nec precibus.* The Church of *England* therefore, following [*] S. *Augustine*, condemns all Religious Invocation of them, as those were *non adorandi propter religionem*; yet in respect they were *honorandi propter imitationem*, to retain their commemoration, by appointing a set service for the days on which it celebrated their memorials; thereby to provoke us to imitation of their piety, and to thank God that left such lights, who by their Doctrine instructed us, and whose lives were examples for us to follow: and in respect there are sundry Saints for whom there is no proper office, to retain one day to praise God for the generality of all, and beg of him that we may follow their pattern in all virtuous and godly living. This if any mislike, I intreat him to pardon me if I joyn not with him; and if he will add more, to give me leave to think he attributes to them (by what name so ever he stile it) that is only due to the Divine Majesty.

22. For Purgatory, however it might be held a private opinion, yet certainly as an Article of Faith it could not be; for the *Greeks*, who have ever [h] constantly denied it, were in communion with the Church of *Rome* till [i] 1238. after which only they began to be accounted Schismaticks, not so much for their opinions, as denying subjection to the See of *Rome*; for some of them coming to *Rome* 1254. [k] *de articulis fidei & sacramentis fidei satis tolerabiliter responderunt:* so that questionless the Historian could not then hold Purgatory an Article of Faith, when those who did affirm *Nullum Purgatorium est*, did give a tolerable account of their Faith. Our Divines therefore charge these opinions [l] only as *fond inventions*,

[g] *In Canon. Missæ lect.* 3. D.

[*] Auguſt. *de vera religione cap.* 55. *to.* 1.

[h] Errores Græcorum in faſciculo Zizaniorum *Mſs.* per *Thomam Waldenſ. fol.* 156. b. *col.* 1. in bibliotheca Archiepiſc. *Armach.*

[i] Mat. Paris *hiſt. minor. Mſ. Ann.* 1237. & 1238. *Vide Hiſt. major. Anno* 1237, p. 457, 16. p. 465, 22.

[k] Mat. Paris. *Hiſt. major. p.* 892, 28.

[l] *Art.* 22.

*ventions, grounded on no warrant of Scripture, but rather repugnant to the word of God*; that is, as I have ſaid before, they deny them to be Articles of faith.

23. In like manner, having firſt [m] declared the bread we break in the holy Communion to be a partaking of the body of Chriſt, and the cup of bleſſing of his bloud, they cenſure Tranſubſtantiation, or the change of the ſubſtance of bread and wine, as [n] what is not proved by holy writ; and therefore no article of faith, *&c.* And indeed how could they ſay leſs of ſo doubtful a tenet, ſo newly crept in, that had burnt ſo many, was ſo contrary to the antient doctrine even of the *Engliſh* Church, as the *Saxon* Homily yet remaining in an old Mſs, with this title, [o] *A book of Catholick Sermons to be repeated each year*, doth undoubtedly aſſure us? It is true, ſome of late have ſtrove to give an anſwer to it; as he that ſtyled himſelf [p] Biſh. of *Chalcedon* will have the author perhaps to have been an Heretick; but that the time and title confutes, all [q] writers agreeing *England* to have been free from any hereſy after S. *Gregory*, till about the year 1166. If that therefore will not do, he hath another, *viz.* the Sermon to make more for Tranſubſtantiation than what the Proteteſtants cite doth againſt it; yet is ſilent both where the words are in it, and who are the citers of them. For my part, to ſpeak once for all, take the whole Homily as it lies, not one piece torn from the other, and if the doctrine of it be ſuch as he can digeſt, I know not why we differ. As for thoſe two miracles, which ſome diſlike ſo far as to think them infarced into the work, I confeſs them not to diſpleaſe me at all; for if they were incerted to prove the verity of Chriſts body in the Sacrament, againſt thoſe who held it bare bread, yet it muſt be after ſuch a ghoſtly and ſpiritual manner as is there repreſented, without any other change in the ſubſtance of the bread and wine than is in the water of Baptiſm, [r] *p.* 33. not bodily but ghoſtly, *pag.* 38. 36. a remembrance

m *Art.* 28.

n *Vide* Bellarmin. *de Euchar. lib.* 3. *cap.* 23. *Sett. ſecundo dicit.*

o *Liber Catholicorum ſermonum per annũ recitandus*, p. 355.

p *Flor. Hiſt. Eccleſ. &c. lib.* 1 *cap.* 24. p. 91.

q Ab hac & aliis peſtibus Hæreticis immunis ſemper exſtitit Anglia,--- ubi hanc inſulam expulſis *Britonibus* natio poſſedit *Anglorum*, ut non jam *Britannia* ſed *Anglia* diceretur, nullius unquam ex ea peſtis hæreticæ vitus ebullivit: ſed nec in eum aliunde uſq; ad tempora Regis *Henrici* ſecundi.... introivit Newbrigenſis *lib.* 2. *cap.* 13. *Vide* Pitſeum *de ſcrip. Anno* 1189. p. 220.

r *Editionis Johannis Day in octavo.*

of *Christs* Body offered for us on the Croſs, *pag.* 46. 24. And this may ſerve for anſwer to that his *Achilles*, by which his doctrine of Tranſubſtantiation [s] *manifeſtius patebit*, of *Odo* Arch-Biſhop of *Canterbury* about 940. converting miraculouſly the Euchariſt *in formam carnis, ad convincendum quoſdam, qui ſuo tempore ceperunt de ea dubitare*: to which I ſhall firſt remember, that when [t] St. *Auguſtine* was preſt with certain miracles of *Donatus* and *Pontius*, which the Donatiſts urged to prove the truth of their Doctrine, he gives this anſwer, *Removeantur iſta vel figuren a mendacium hominum, vel portenta fallaciũ ſpirituum; aut enim non ſunt vera quæ dicuntur, aut ſi hæreticorum aliqua mira facta ſunt, magis cavere debemus*; and after a learned diſcourſe, he tells of ſome in the Catholick Church had happened in the time of St. *Ambroſe* at *Milan*, upon which he gives this grave cenſure, *Quæcunque talia in Catholica fiunt, ideo ſunt approbanda, quia in Catholica fiunt; non ideo ipſa manifeſtatur Catholica, quia hæc in ea fiunt. Ipſe Dominus* Jeſus *cum reſurrexiſſet à mortuis, & diſcipulorum oculis videndum manibuſque tangendum corpus ſuum offerret, ne quid tamen fallaciæ ſe pati arbitrarentur, magis eos teſtimoniis Legis & Prophetarum & Pſalmorum confirmandos eſſe judicavit, oſtendens ea de ſe impleta, quæ fuerant tanto ante prædicta*, &c. and a little after, *Hoc in lege & Prophetis & Pſalmis teſtatus eſt, hoc ejus ore commendatum tenemus, Hæc ſunt cauſæ noſtræ documenta, hæc fundamenta, hæc firmamenta.*

[s] p. 90. *vide* Malms. *de pont. lib.* 1. *in vita Odonis fol.* 114. *b* 36.

[t] *De unitate Eccleſ. cap.* 16. *tom.* 7.

25. To apply this to our caſe; the Church Catholick hath ever held a true fruition of the true Body of *Chriſt* in the Euchariſt, and not of a ſign, figure, or remembrance only, but as the *French* confeſſion, [u] *que par la vertue ſecrete & incomprehenſible de ſon Eſprit, il nous nourrit & viviſie de la ſubſtance de ſon corps & de ſon ſang*, &c. and therefore we can agree to theſe verſes.

[u] *Vide* Chamier. *de Sacramentis lib.* 20. *cap.* 1, 2.

*Chriſt*

*Chriſt was the* Word *that ſpake it,*
*He took the* Bread *and brake it:*
*And as that* Word *did make it,*
*So I believe and take it.*

Here is then a Catholick Sermon, commanded to be read in the Church many years before the word *Tranſubſtantiation* was heard, as the Doctrine of it, teaching me this participation with *Chriſt*, however true, yet is not fleſhly, but ſpiritual: if therefore this miracle were not to convince thoſe held the communicating of *Chriſt* in the Sacrament, to have been no other than fantaſtical, and the bread to have been, and conveyed no other to us than bare bread, muſt not I, according to St. *Auguſtine*, avoid it as the fancies of lying men, or the operation of deceiving ſpirits, *&c.* And this as it may ſerve in general for all Miracles, ſo in particular for that of late divulged, of a poor mans legg cut off in *Spain* and buried, yet four years after reſtored: which if it be not ſome Impoſture, as the golden tooth in *Sileſia*, or of *Arnald Tilly* (taken in *Francis* the 2ds time, not only by others, but by the very Wife of *Martin Guerre* for her husband, and which held the Parliament of *Tholous* ſo much perplexed to reſolve) we muſt not (according to this holy mans doctrine) believe for that or any of the like nature, farther than is proved by the Law and the Prophets, *&c.* Yet there is one thing in my opinion very conſiderable; what the Apoſtles did, were ſuch, and in thoſe places, no man could deny them: but theſe the Church of *Rome* holds out for confirmation of their religion, are either in corners, as *Garnets* Face in the Ear, with ſo dark proofs, as when they are looked into, *res tota cum contemptu dimiſſa eſt*; or elſe done in *Italy*, or *Spain*, where the Inquiſition will ſuffer none but themſelves to examine the fact: whereas if they followed th' Apoſtles example, they ſhould be in *England* or *Germany*, that the Proteſtants might ſay, *indeed a notable miracle hath been done*

by

by our Lady, *is manifeſt to all, and we cannot deny it*; Acts iiij. 16.

26. [x] Another will have that Homily, at leaſt what he takes on him to confute, to contain no other than Catholick Doctrin; and then falls upon the Arch-Biſhop of *Armach*, whom he conceives to have ill tranſlated it out of the Latin, in which language there is not now found any ancient copy of it; [y] inſiſting, that though it were Printed at *London* 1623. it was not to be heard of when he writ, which was about 1631. inſinuating as if more might be ſaid, if he could ſee the author himſelf. For the firſt of theſe, it muſt be ſaid to contain Catholick Doctrine on the grounds [z] before; but if it be that the Church of *Rome* admits for ſuch, I am glad to underſtand that from him. For the Primat of *Irelands* tranſlating the Latin to the diſadvantage of the *Romiſh*, I ſhall give no anſwer, but that his *Engliſh* are indeed ſome parts of that Sermon, but the *Latin* pieces of *Bertram* ſo agreeing with them, as they were undoubtedly taken out of him, (by which he gives a far elder teſtimony to that author than *Oecolampadius*) who was, no queſtion, a Catholick Doctor; but being ſo, why is he prohibited * by the Roman Index? why if at all permitted, muſt it be *excogitato commento*? For the other, that it could not be had in *London* only eight years after it was Printed, I can ſay nothing, but ſome men will not hear that they miſlike: for that Homily, of which (if he ſay any thing) he ſpeaks, firſt ſet out by *John Day*, with the ſubſcription of 15 Biſhops atteſting the truth of the Copy, after 1623 reprinted by *Henry Seal*, always in the Book of *Acts and Monuments*, &c. [a] in the life of *Hen.* the 8. and of late by Mr. *Whelock* put into *Latin*, and taken without any intervening tranſcription from the original *Saxon*, (that he might not vary in a tittle) was with his tranſlation of it Printed at *Cambridge* 1644. [b] amongſt divers other excellent notes of that learned man upon *Beda*, that ſuch as under-

x I. R. *his ſpectacles to Sr* Humfrey Lynde, *p.* 135. *Sect.* 4

y *p.* 143. *cap.* 9. *Sect.* 10.

z *N.* 23.

* *Index certorum auctorum.* Romæ.

a *Tom.* 2. *p.* 450.

b *p.* 462.

underſtand not the language, may in that point ſee the doctrine of our forefathers.

27. A third [c] Doctor, who cannot deny but it makes directly againſt Tranſubſtantiation, gives an anſwer I could not have expected, yet in my opinion more ingenuous; *That it is unreaſonable to produce the forceleſs authority of theſe* Saxon *Homilies, which have no warrant of truth from any other but from ourſelves*; and the margin, *Theſe Homilies were never heard of, but now of late amongſt Proteſtants, only framed and printed by themſelves, without the warrant of any one indifferent witneſs.* This is, I ſay, what I could not have looked for. Can any man imagine two Arch-biſhops, thirteen Biſhops, beſides divers other perſonages of honour and credit, could have been induced to ſubſcribe ſo palpable a lye? as it muſt be, if this and the other paſſages, by them there teſtified to be found in the ancient monuments of this Church, were lately framed. But the old books that yet [d] remain, writ above five hundred years ſince, do enough vindicate the Proteſtants, in that which I dare ſay no one of them who alledge it do in their hearts believe, not to have been extant in them, as the Arch-biſhop firſt ſent them to the Preſs,

c Malon *his Reply to the Archbiſhop of Armach*, p. 320.

d *In bibliotheca publica Cant.*

28. Of the little credit the Council of *Lateran* in this point gained here, I have [e] touched before: neither did *Peckham*'s conſtitution, *ſub panis ſpecie* ſimul *dari corpus*, &c. ſpeak home, nor was the thing ever abſolutely determined with us till 1382, ſo that the opinion of Tranſubſtantiation, that brought ſo many to the ſtake, had not with us 140 years preſcription before *Martin Luther* began; for in that year *Wickliff* having propounded, [f] *quod ſubſtantia panis materialis aut vini manet poſt conſecrationem*, &c. the Archbiſhop taking it into [g] conſideration, did not think fit to condemn the *Tenet*, without farther advice with the Univerſity of *Oxford*, [h] where *libratis ſingulis*, every ſaying weighed, (and in eſpecial,

e *Chap.* 7. *n.* 37.

f *In faſciculo zizaniorum Mſs. per* Thom. Waldenſ. *&* Henr. Knighton, *qui tunc vixit ſcripſitque*, col. 2648, 8. *&* 2654, 44.

g Knight. col. 2649, 31.

h Col. 2650, 49.

[l] *Col.* 2654. as it ſeems, thoſe concerned the Euchariſt) he did condemn ſome as heretical, others as only erroneous, and farther, *ſingulos defenſores eorum* impoſterum *ſententia excommunicationis innodatos fore*; and gave command, [k] *ne quis* de cætero *cujuſcunque ſtatu*, &c. *hæreſes ſeu errores prædictos vel eorum aliquem teneat, doceat, prædicet ſeu defendat.* The [l] Chancellor likewiſe of the Academy repeating *Wickliffs* opinions touching the holy Communion, ſhews they had been diligently diſcuſs'd by Doctors in Divinity, and Profeſſors in the Canon-Law, *ac tandem finaliter eſt compertum atque judicio omnium declaratum, ipſas eſſe erroneas, fidei Orthodoxæ contrarias, & determinationibus Eccleſiæ repugnantes:* and then after all this ſearch, delivers the Doctrine of Tranſubſtantiation as the concluſion agreed to be held, *Quod per verba ſacramentalia à ſacerdote prolata, panis & vinum in altari in verum corpus Chriſti & ſanguinem* tranſubſtantiantur, ſeu ſubſtantialiter convertuntur *ſic, quod poſt conſecrationem non remanent in illo venerabili ſacramento panis materialis & vinum ſecundum ſuas ſubſtantias, ſed ſecundum ſpecies earundem.* And this I take to have been the firſt Plenary determination of the Church of *England* in the caſe, which yet how well it will be liked by ſuch as hold the manner of Converſion to be by a [m] ſucceſſion of Chriſts Body to the ſubſtance of the bread, I leave others to diſpute. But certainly the Arch-Biſhop not [n] adventuring to proceed in it alone, nor by his own Council, by [o] his extending what he did only to the future, both for puniſhment and *Tenet*, and after [p] long enquiry concluding the truth of it, enough proves it not to have been in former times fully reſolved on in this Church; ſo that we may ſay of our Anceſtors, as [q] the Jeſuites here about ſome 60 years ſince did of the Fathers, *rem Tranſubſtantiationis ne attigerunt.* And it may not here unfitly have a place that [r] *John Tiſſington*

[k] 2652, 67.

[l] *Col.* 2653.

[m] *Vide Bellar. de Euchariſtia lib.* 4. *cap.* 24. *Sect. ult. n. Noluit Arch. plenarie procedere.*

[o] *Impoſterum, de cætero teneat.*

[p] *Tandem finaliter.*

[q] *A ſparing diſcourſe pag.* 13. *writ by a ſecular Prieſt againſt the Jeſuites, anno* 1601.

[r] *In Confeſſ. contra Wickliff. in bibliotheca archiepiſc. Armach. alſo.*

*Tiffington* a Franſcican, whom *Pitſeus* (from *Baleus*, not *Leland*, as he would have us think) affirms to have been an aſſiſtant in this diſpute at *Oxford* 1382, or as ſome 1381. cannot deny the truth of the Aſſertion, *quod panis & vinum remanent poſt conſecrationem in naturis ſuis, adhuc ſervatur Laicis, & antiquitus ſervabatur.* And here it is not unworthy the remembring, that by the Law of the 6 Articles 31. *Hen.* 8. cap 14. (containing in effect the body of Popery) no man was to die as an Heretick but he who denyed this Tenet; all others only as Felons, or men endangering the peace of the Kingdom, by teaching contrary to what was publickly received. By which it likewiſe appears, in fixing th' imputation of Hereſy, the *Engliſh* looked on their home Determinations, not thoſe of any forreign Church.

29. But I do not take upon me to diſpute matters controverſal, which I leave as the proper ſubject to Divines; it ſhall ſuffice only to remember, the Church of *England* having with this great deliberation reformed it ſelf in a Lawful Synod, with a care as much as was poſſible of reducing all things to the pattern of the firſt and beſt times, was interpreted (by ſuch as would have it ſo) to depart from the Church Catholick; though for the manner, they did nothing but warranted by the continual practice of their Predeceſſors, and in the things amended had antiquity to juſtify their actions: and therefore th' Archbiſhop of *Canterbury*, in provincial Synod begun in S. *Pauls* the 3 of *April* 1571, and all other Biſhops of the ſame Province, gave eſpecially in charge to all Preachers, to [r] *chiefly take heed, that they teach nothing in their preaching, which they would have the people religiouſly to obſerve and believe, but that which is agreeable to the doctrine of the old Teſtament and the new, and that which the Catholick Fathers and ancient Biſhops have gathered out of that doctrine.* So that

r *The book of Canons of the ſame Synod printed by* John Day 1571.

nothing is farther off truth, than to ſay, ſuch as reformed this Church made a New Religion; they having retained only that which is truly old and Catholick, as Articles of their faith.

30. Thus was Religion reformed, and thus by the Queen eſtabliſht in *England*, without either motion, or ſeeking any new way not practiſed by our Anceſtors, but uſing the ſame courſes had been formerly traced out unto them, for ſtopping profaneneſs and impiety, when ever they peeped in the Church. And certainly, to my underſtanding, there can be none that will with indifferency look upon thoſe times, but he muſt (however he miſlike the thing done) approve the manner of doing it. Yet the favourers of *Rome* ceaſed not to proclaim all had thus paſt to have been Heretical (without inſtancing any particular, as to ſay ſuch a carriage was after the manner of Hereticks, ever condemned by the Catholick Church, and Orthodox Writers in former times, or ſuch a Tenet in your confeſſion was held Hereſy from this place of Scripture anciently, by ſuch holy Fathers met in general Council) and to raiſe ſtirs and commotions in the Common wealth, [f] to excommunicate the Queen as *flagitiorum ſerva*, free her ſubjects of their Allegiance, to give out we had [t] a *Parliament-Religion*, *Parliament-Goſpel*, *Parliament-Faith*, and this before ever the 39 Articles, one main pillar of the *Engliſh* Reformation, were confirmed by Parliament.

[f] *Bulla Pii 5ti March 28. 1569.*

[t] Harding *his confutation of the Apol. part. 6.*

13. Upon the whole, it is ſo abſolutely falſe that the Church of *England* made a departure from the Church, which is the ground and pillar of truth, as I am perſwaded it is impoſſible to prove ſhe did make the ſeparation from the *Roman* it ſelf; but that having declared in a lawful Synod certain opinions, held by ſome in her communion, to be no articles of faith, and according to the precedent of former times, and the power God and nature had placed in her ſelf, redreſſed particular abuſes crept into

into her, the Pope and his adherents, without ever examining what was the right of the Kingdom in such like cases, that had from all antiquity done the same, would needs interpret this a departing from the Church, because he resolved to maintain as articles of faith, and thrust on others as such, some ambiguous disputable questions the *English* did not think fit to admit into that number. To make a departure from Christs Church is certainly a very hainous offence, she never commanding ought but what is conformable to his will, nor * requiring her children to believe any thing as matter of faith, but what is immediately contained in the Word of God, or by evident consequence drawn from it: and as she excludes no Christians from being her children, who by their own demerits deserves not to be out of the divine favour; so in opposing those who endeavour to procure some tenets to be admitted for hers, which cannot be deduced from that ground, we do not depart from her, but gain-say humane errours, and conceits, which they would infer to be her commands who acknowledges them not. But at St *Augustine* in a dispute with a Donatist, n *utrum schismatici nos simus an vos, non ego, nec tu, sed Christus interrogetur, ut judicet Ecclesiam suam*: so may I, whether we are the schismaticks or the Church of *Rome*, *Christ* himself be the Judge. But whether divided from the other, being matter of fact, let the histories of former times, the extraordinary proceedings of the See of *Rome* of late against the Queen and this Common wealth be compared, and I am confident the judgment may be referr'd to any indifferent person (though of that belief) who made the separation, and whether this Kingdom on so high provocations, did any thing would not have been parallell'd by former times, had they met with the like attempts.

* Bellarm. de justif. lib. 3. cap. 8. sect. prima ratio & ibid. lib. 1. cap. 10. sect. prima ratio.

n *Contra literas Petiliani lib 2. cap. 83. tom. 7.*

32. Neither can the Crown in this Reformation be any way said to have enterprised on the Papal Primacy, (which (for ought I know) it might have acknowledged so far as is expreſt or deduced from holy Scripture, or laid down in the ancient sacred Councils, or the constant writings of the orthodox primitive Fathers, and yet done what it did;) but to have exercised that Authority alwayes resided in it, for conserving the people under it in unity and peace, without being destroyed by the Canons & Constitutions of others; not suffering a forraign power ruine them to whom it owed protection, In which it did not trench upon the rights of

of any but conserved its own; imitating therein the Imperial Edicts of several Princes, and of those were in possession of this very diadem, conformable to their Coronation-oath.

33. And from hence may be answered that which *Rome* brings as her Achilles, touching the succession and visibility of the Protestants Church and Doctrine in all ages since Christ; for if theirs have been, it is impossible to say the others have not; the former adding only more articles for a Christian to believe, which the latter will not imbrace as needful; so that if theirs (as they so much glory) have had the continuance from the Apostles, these needs must, which only denies some part of that they hold. [a] *Protestants* (says Stapleton) *have many things lesse than Papists, they have taken away many things which Papists had, they have added nothing.* And here to my understanding the *Romanists* require of us what lies on their part to prove; for we denying in the succession of Bishops from *Cranmer*, *Warebam*, even to *Augustin*, and so of the *Britons*, ever any one to have held the points we differ in to have been points of Faith, in that degree of necessity they are now required, and for proof cite not only the *Apostles*, *Nicen*, *Athanasian* Creeds, but even that of *Peckham*, which we find so to differ from the late one set out by *Pius 4tus*, as we cannot but say it is unjust in them to press us to a profession in religion farther than our Ancestors were, they on the contrary affirming all those holy Bishops preceding, not only believed them as these now do, but did require them of others with the like necessity they now are, ought certainly to prove what they thus boldly affirm, which when they have done, truly for my part I shall think fit to yield; but till they do it, let them cease from proclaiming us Hereticks, who hold no other than the ancient Faith at first deliver'd unto us.

[a] *Portesse of faith, at the end of Bedas Hist. fol. 47. b.*

But this as a point rather Dogmatical for Divines, than historical, the subject I undertook, I shall not here farther wade into.

FINIS.

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*Hugo Grotius de Rebus Belgicis*, Or the Annals and History of the Low-Country Wars in English, wherein is manifested, that the United Netherlands are Indebted for the Glory of their Conquests to the Valour of the *English*.

A Treatise of the *English Particles*; shewing much of the variety of their significations and uses in English; and how to render them into Latin, according to the Propriety and Elegancy of that Language; with a Praxis upon the same; by *William Walker*, *B. D.* School-Master of *Grantham*.

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